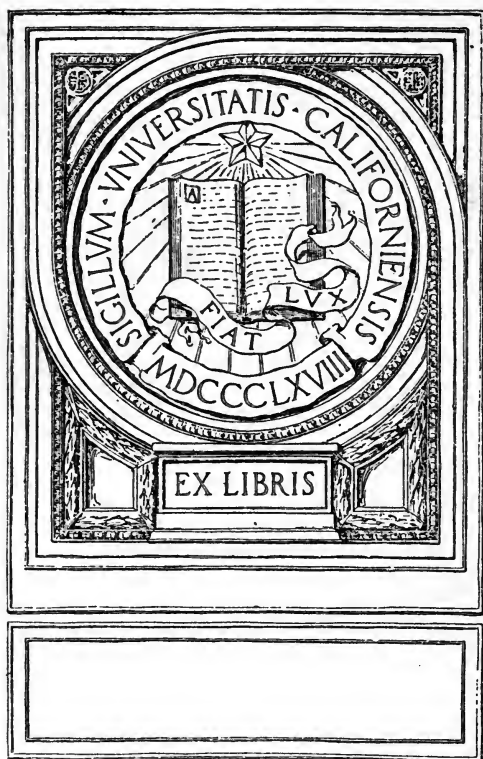


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THE CASE FOR LIBERTY

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THE CASE FOR LIBERTY



BY

E. S. P. HAYNES

AUTHOR OF

"THE DECLINE OF LIBERTY IN ENGLAND"

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TO
JOHN GORDON JAMESON, M.P.

“Vivre sa vraie vie, sentir son vrai moi.”

FLAUBERT.

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PREFACE

IN the early months of 1916 I wrote a book entitled *The Decline of Liberty in England*. It was composed in illness and in a period of acute anxiety about causes and individuals. Like many others I then feared that even if the Central Powers were defeated the British Empire would by victory be converted to Prussian ideals. Yet to-day as I write these words the Central Powers are defeated and the Allies are laying the foundations of international peace.

In 1916 it was difficult to write of liberty except in the sentimental manner of John Stuart Mill. War and fear of war have necessarily always been the worst enemies of liberty. British liberties were built up on the foundations of that insular security which was for the first time since the Norman Conquest seriously threatened in 1914, with the result that our laws and institutions were assimilated to those of the rest of Europe and therefore adapted to

the military and bureaucratic machinery which war necessitates.

I did not contest this necessity ; but I felt it important to record the tendencies in that direction, which were only too obvious before 1914 and which were due to the prestige of German philosophy in the latter part of the nineteenth century. That philosophy was, as I shall try to show, the offspring of Prussian militarism carefully reared by thinkers like Hegel and Marx. The one counterblast to it is security for the small State and for the citizens of States both great and small, and that security can only repose on the success of international co-operation against international violence. The Religion of the State, which transformed Germany into a horde of dancing dervishes, must be displaced by the Religion of Man.

When once the free development of the State and the citizen is established against the menaces of military autocracy the discussion of liberty ceases to be academic ; and the vital problem then to be solved is whether the State should aim at moulding citizens in this or that direction or should be content with guaranteeing certain conditions under which individual citizens may themselves determine the laws which they

shall obey and the general privileges of their commonwealth.

The latter policy cannot exist without the support not only of genuinely representative government, but also of a lively interest in public affairs which certainly did not exist in so-called democratic countries before the war. This interest has been violently aroused in the populations of all countries since the deplorable catastrophe which resulted from the servility of the German under a criminal autocracy and from the failure of all other statesmen to save the world from the war which has all but destroyed civilisation itself.

Humanity must decide for itself in the next few years whether it is to be governed by a general will (without prejudice to the development of the individual) or by co-opted groups of politicians who derive their executive power either from secret party funds or from bribing and deceiving the electorate.

The war sharply revealed the fact that the world was becoming too big and too restive to be governed in the Prussian manner. The Hohenzollerns in Prussia and their Collectivist imitators in other countries were governing the world like an army. Men were not to

be responsible to themselves and their fellow-citizens, but only to the State, which was to regulate their lives in the minutest details, and there was to be no room for local autonomy or individual responsibility. One would imagine that the absurdity of such interference would be obvious to the least intelligent politician to-day. Yet the governing classes in all countries seem more and more determined to maintain imbecile restrictions and abundant doles in order to preserve for themselves an illusion of power. They are merely preparing a slow match for a powder magazine.

I have dedicated this book to my friend John Gordon Jameson, because, though a recent member of the House of Commons, he is yet distinguished by an exceptional shrewdness, common sense, and understanding of human beings. Like his father, the late Lord Ardwall, he has always had a deep instinct of justice to the individual, rich or poor, and if this country can yet be saved from the desolation of bureaucratic corruption and the interference of tyrannical busybodies, he will be one of her saviours.

As will be seen, I have not attempted to improve on Dr Johnson's definition of liberty as

“(a) privilege or exemption as opposed to slavery, and (b) restraint from relaxation as opposed to necessity.” I have merely argued that slavery is not, as a rule, combined with responsibility, and that relaxation ought to exist where there is no necessity to abolish it. The war has abundantly confirmed both propositions in connection with the admittedly superior initiative of British and French private soldiers. Nor have I attempted, after the Teutonic manner, to involve the subject in metaphysical disquisition, though the manner has always been popular in this country among those who consider a discussion of metaphysic more valuable than a discussion of life. The vitally important aspect of liberty to-day is its function in combating the sort of anarchy which threatens civilisation all over the world; for this anarchy is the inevitable result of war lords and their imitators despising the normal aspirations of the individual human being to a brief period of normal happiness—a little time of work and play and love on this side of the grave and a reasonable chance of passing on the same benefit to the next generation.

ST JOHN'S WOOD,
April 1919.

INTRODUCTION

THERE have been many definitions of liberty and its limits, and it is much easier to distinguish what it is not than what it is. But I do not propose to take up the reader's time and attention by any laborious analysis at the outset, as I trust that if he or she succeeds in finishing this book, he or she will be able to give quite as good a definition of liberty as I can.

Liberty has always been (like most British ideals) a negative ideal; but it does stand for a certain belief in the result of allowing every community or individual to follow a certain sense of function or vocation, for a belief in the virtues of spontaneity as opposed to external control and in the adaptability of public and private virtues to public and private emergencies. This belief is a characteristically British ideal on which reposes the solid fabric of the British Empire. Its complement is the characteristically British distaste for precise and positive terms. When we profess a respect for "Liberty of

Thought," what we really respect is *thought* itself, the freedom of expressing which is entirely dependent on protection from the freedom of a mob to suppress it; but we prefer to talk of Liberty.¹

In a recent pamphlet on *Religion and Civil Liberty*,² Mr Belloc maintains that there "is an implied injunction upon the authorities which govern the community that they should preserve not only its material structure but its character or soul. In proportion as this end is perfectly attained we speak of the community as *politically* free, although the restraints to which the members of it are put by the common authority may be very severe," as, for instance, in time of war. He argues that in normal times *individual* liberty should not be restricted beyond the limit which is necessary to the material structure or character of the State.

Mr Belloc's pamphlet is intended to show that the recent extension of facilities for endowing anti-Christian Societies points not so much to a zeal for liberty itself as to a change of religion in England. This change also seems to involve greater restriction by the State of

¹ Freedom of *discussion* is quite a different matter, for discussion can be prevented though *thinking* cannot be.

² The Catholic Truth Society, London, 1918.

liberty to publish a novel like *Tom Jones*, or to drink beer. I have mentioned his definition in order to show how difficult it is to define liberty and the different types of enthusiasm which the word creates in different persons.

For example, a thinker like Dr Johnson lived in an age when the liberty cry was associated with mob violence. Men like Mr Bernard Shaw attribute the loss of liberty in the nineteenth century to the creation by Sir Robert Peel of an efficient police force. But our ancestors of the eighteenth century did not at all relish the unmitigated violence of the unrestrained mob either under John Wilkes or Lord George Gordon. A mob which did not like a new play would think nothing of wrecking the theatre without any respect for the comfort or security of the more orderly playgoers. A cursory acquaintance with Wilkes's biography will make the modern reader understand the terror of mobs which only vanished after the failure of the Chartist riots in 1848.

Dr Johnson fully shared this aversion for mob violence except perhaps at a safe distance. Boswell's account of his sympathetic attitude to negro insurrections is worth quoting on this point : " After supper I accompanied him to his

apartment, and at my request he dictated to me an argument in favour of the negro who was then claiming his liberty, in an action in the Court of Session in Scotland.

“He had always been very zealous against slavery in every form, in which I with all deference thought he discovered a ‘zeal without knowledge.’

“Upon one occasion, when in company with some very grave men at Oxford, his toast was, ‘Here’s to the next insurrection of the negroes in the West Indies.’ His violent prejudice against our West Indian and American settlers appeared whenever there was an opportunity.” Dr Johnson had an English habit of always coming to the point in a controversy, and the question of slavery has always been at the core of the whole question of liberty. It may, for instance, well be argued that the free development of any community is bound up with the existence of slavery in one form or another. The slavery of the ancient world was very definite, and the mediæval serf was certainly not much happier than the modern industrial wage-earner. The modern wage-earner is only worse off, because if you are a slave it is better to be the slave of an individual than of a

community. Mr Belloc rightly maintains that the peasant proprietors of Ireland and France vindicate liberty because they have property. This is quite true ; but neither Mr Belloc nor his friends would ever wish to be employed by a peasant proprietor, if the way in which the British farmer has kept his underlings in subjection for the last hundred years affords any analogy to the methods of the French or Irish peasant.

Mr Wells, in a book called *The Great State*,¹ drew a charming little diagram showing that the increasing surplus of energy and opportunity due to scientific organisation and mechanical production tended to create two classes, namely, a leisure class and a labour class. The one class is under no urgent compulsion to work, while the other is divorced from the land and lives on uncertain wages. Three alternatives await this development, namely, (1) social disaster, (2) an unprogressive, bureaucratic, servile State, and (3) the whole community of the Great State working under various motives and inducements, but not permanently or unwillingly. At the moment of writing these lines the social catastrophe seems a more likely solution than either of the others, but assuming that this is avoided,

¹ London, 1912.

we are left a choice of the Servile State and the Great State, or, as I should prefer to call it, the Free State. How far the Free State necessarily reposes on a foundation of general labour conscription is perhaps uncertain ; but there can be no doubt whatever that it will soon be necessary for every citizen to have some knowledge of motor-driving, plumbing, and elementary chemistry, to say nothing of domestic service, if his or her life is to be at all tolerable.

For my purpose it will be convenient to make various assumptions of what can be done, and my first assumption will be that the modern community can by the aid of machinery and labour conscription achieve equality of opportunity for all. But even when this assumption is made, other elements remain which are hostile to liberty.

For example, liberty has never existed except in an atmosphere which has not been poisoned by war or fear of war. The student of history will note that up to 1800 the ordinary civilised man has enjoyed much more liberty *in time of peace* than the ordinary European after 1800. The Napoleonic despotism and conscription which resulted from the persecution of revolutionary France by kings and emperors, together with the activities of Frederick the Great, have

made the modern State omnipotent ; and as from 1830 the whole political philosophy of Germany has been based on the assumption that war is a national industry. This philosophy unfortunately filtered into this country by reason of the enormous prestige which German philosophy has acquired here merely because it is German. It also remains to be seen whether the modern world will succeed in abolishing conscription for all purposes. Even if this is achieved, it does not at all follow that German philosophy will die out in Great Britain, even though its logical justification has disappeared.

I will, however, further assume that war and the fear of war can be ruled out from the controversy as to liberty, and we are then free to deal with the question of liberty as bound up with the inherent nature of man. The Fabian contention on this point has been very ably expounded in a discourse upon three books by Mr G. D. H. Cole¹ :—

“ Perhaps the plainest definition of maximum freedom in a community is the greatest aggregate development of faculties and desires, and of their exercise and satisfaction, by the individual human beings

¹ *New Statesman*, vol. xii., No. 301, p. 305.

composing that community. It will plainly be impracticable, in any heterogeneous community, to devise any form of organisation which will give unlimited development to every human type and temperament; and the preference of different people for different forms of social organisation depends largely on their unconscious favouring of particular types and temperaments. Unrestricted competitive capitalism offers the greatest measure of freedom to the adventurous, acquisitive man, but at the expense of the millions of wage-slaves. An efficient, equalitarian, bureaucratic State might well offer the greatest practicable measure of freedom to the common herd of apathetic citizens to the detriment of the freedom of the adventurer and the initiator. A community of independent, mutually interacting circles or groups, multiform and multifarious, might mean a maximum of free activity for a self-reliant, intelligent, good-tempered, and equally well-educated race, but not to the slothful and servile among them. Sheer chaotic anarchy might give unexpected opportunities of development and self-realisation to the rebel and fanatic, but would be horribly cramping to the common

run of citizens. *Hence, any ideal of social organisation must assume some type of character as being predominantly prevalent, or as being such as should be favoured and encouraged."*

Convincing as the above argument sounds, there seems to me in the last sentence, which I have italicised, a fundamental assumption of a kind which is absolutely hostile to any form of liberty. The Fabian or Collectivist thesis, however skilfully it may be disguised, is that some governing class, like the Guardians in Plato's Republic, should always be regulating the activities of any society or of the individuals composing it so as to promote what that class considers to be "the good life" in one way or another. It is of course quite true that what another writer in the same paper calls "the liberty of privilege" may die without being regretted, and that the modern peer may not deeply resent liability to arrest or to pay taxes. But when the same writer goes on to say that the liberty of the gipsy need not be regretted, he is assuming that all gipsies have died out, which is certainly not the case. Again, if a man is suffering from cancer and, after having been told that he cannot live without a serious operation, prefers to give up the slight chance of recovery by means of the

operation, I do not think that the State has any right to subject him by force to the operation. The only possible right of the State to do so would be derived from military necessity on the assumption that this man's life was essential to the safety of the State. But in time of peace there can be no such excuse.

It would of course be possible for the Fabian to argue that one nation must be rigorously organised in order to compete with another. A specimen of this argument is that of the American Prohibitionist, who says that Great Britain cannot possibly compete with the United States except by adopting Prohibition. But the Collectivist thinker does not usually take this line because his energy is mainly concentrated on either destroying or regulating competition within the community itself. Emulation may be permitted to remain, but not competition in any economic sense. It is not perhaps unfair to suggest that no equalitarian, bureaucratic State will compete to advantage with the State in which the adventurous, acquisitive man gets to the top by the aid of millions of wage-slaves. On the other hand, the slothful and servile persons for whose liberty the Fabian writer is always so much concerned will not be much better off in the equali-

tarian, bureaucratic State, because if they do not want to work they will be made to work in a compulsory labour colony. All that they gain from the absence of economic competition is not having to work for unduly long hours. From time immemorial every governing class has been afraid of idleness, because idle persons may easily become dangerous. For that reason, according to old-fashioned ideas, poverty saved society by making idle people work.

This, however, is not at all the Fabian's idea. He wants a society in which no one is to be poor or overworked or enslaved by the successful man, and for that reason the State must initiate all enterprises and put a brake on all human activity. But if once this policy is accepted there is no logical or reasonable ground for resisting any interference by the State with marriage, or the birth-rate, or clothes. The State which, if worked by the machinery of representative government, is usually controlled by sinister minorities, may on this assumption sterilise any citizen, male or female, on the certificate of an official surgeon, or authorise polygamy at a moment's notice. Such measures could easily be justified on the ground of promoting efficiency in international competition, which has become

a necessity as vital as that of war itself. But the Collectivist fondly imagines that all this inhuman nonsense makes for human happiness.

Personally, I am not prepared to admit that any community whose most intimate concerns are at the mercy of any governing class is going to derive any benefit from its individual activities being stereotyped on rigid lines. Although little has been written about political theory in the British Constitution, it may safely be said that the British instinct has always been to leave the initiative to the individual volunteer, as in the ancient institution known as "hue and cry." This was a complete antithesis to the German military tradition, whereby all initiative came from the compulsion of a governing class mainly composed of Princes and Junkers.

The defence of British freedom is as old as the argument for religious toleration. Most evolutionary theories justify the belief that intellectual variations from any good type must be allowed to exist as a condition of progress, and that such variations can only endure by virtue of their intrinsic worth. This may perhaps seem too optimistic a view; but clearly individual development must be a condition precedent to any success in self-adaptation to any environment,

which cannot properly be achieved unless no potentialities are wasted.

The Collectivist argues as if human society could be regulated on the analogy of a garden. In his Romanes Lecture entitled "Evolution and Ethics," Huxley compared the progress of human morality to the eradication of weeds from a garden, and no doubt the Collectivist has twisted this analogy to the regulation of a community by the State. But the analogy is misleading if pushed too far, and Huxley would have been the first to recognise that even the art of gardening varies with the history of mankind and the different degrees of success in horticultural experiments. I need not recapitulate all the arguments in support of this view which John Stuart Mill gives in his essay on Liberty. His arguments are rather over-stated, and sometimes give the impression that he is defending eccentricity for its own sake. But there is no doubt that the doctrine behind them is, and always has been, the nucleus of all British political theory. I do not mean that eccentricity is the inspiring motive of our political theory. The ordinary Englishman would maintain that the case for liberty must always be argued according to the merits of particular circumstances. But the Englishman does appreciate

the practical convenience of allowing individuals as much freedom and responsibility as possible.

The British belief in liberty is perhaps more severely tested by the common usages in Great Britain of social as opposed to political liberty. In my first book on this subject I gave very full details of the tyranny exerted over the individual both by the Catholic and Calvinistic authorities, and much of this tyranny remains in the village to-day, even if it is escaped in the larger towns.¹ It may therefore be assumed that in English-speaking communities there has always been far more political than social liberty. But by some queer law of compensation, which the future historian may perhaps be able to explain better than I can, political liberty has always flourished in the absence of social liberty, and social liberty has always flourished in the absence of political liberty. The Pilgrim Fathers enjoyed political liberty at the expense of the sort of social tyranny which Hawthorne has so classically described in *The Scarlet Letter*. Any Russian peasant or citizen before 1916 enjoyed scarcely a vestige of political liberty; but in other respects he enjoyed a freedom which has never been known to the modern Englishman in regard to such matters as the

¹ *The Decline of Liberty in England*, London, 1916.

opening and closing of restaurants or theatres. This question of social liberty should not, however, be excluded from discussion, and I propose not to exclude it from this book.

The object of this book will be to show, both as regards political and social liberty, that liberty is the essential condition of all progress and improvement, just because it encourages, or at any rate makes possible, all kinds of political or social experiments. In any state or society where liberty exists the bad experiments will fail automatically, whereas in any other society they have a tendency to flourish artificially.

Perhaps, however, the most important consideration is the value of individual liberty as the one great pillar of individual responsibility. In the international world it is now recognised that there should be no neutrals when it comes to war, since it is the interest of every nation, however small, to promote the peace and order of the world. This equally applies to any community of individuals, and was fully recognised in mediæval England, as may be seen in the institution of "hue and cry." The latter half of the nineteenth century witnessed a remarkable upheaval in thought which could not but shake the sentiment of individual re-

sponsibility to its foundations. The decline of the Christian religion, necessarily involving in due course the decline of Christian morality, has inevitably affected the fundamental motives of conduct. Goldwin Smith wrote in one of his essays fifty years ago that when the world at large really ceased to believe in the Christian religion the world would have a very bad quarter of an hour, and his prophecy has at last come true.

For some time past the widespread scepticism in regard to the claims of the Churches to exercise a supreme jurisdiction over human affairs has resulted in the religion of the State as such absorbing human allegiance. This religion found its fullest expression in Germany, where patriotism was inculcated in children from the cradle as transcending all other sanctions of human conduct. The German Kaiser became a kind of Mahomet, and Europe was devastated by the disciples of Kultur as it had many centuries before been devastated by the disciples of the Koran. The militarist supplanted the priest, and with the outburst of the Kaiser's great religious war on the infidel nations of Europe in August 1914, all the horrors of the Inquisition and the Thirty Years War were repeated on an infinitely larger scale.

The defeat of the Kaiser and of the German religion of the State has left the world in absolute chaos. On the one hand, the revolt against the domination of a Military State has led to anarchy in Russia and elsewhere; while, on the other hand, the necessity of concentrating all the powers of the State has, to all appearance, begun to assimilate nations like the British Empire and the American Commonwealth to the political character of the Prussianism which they had to repel. The problem of the whole world to-day is to evolve a State which can command the allegiance of its citizens without spiritual or other coercion.

This problem is enormously complicated by the influence exerted by Collectivist ideas before the war; for Collectivists remain singularly blind to the German militarist origin of all their theories. They justify their interference with individual liberty by representing it as a deliverance from the tyranny of the squire and the parson; whereas the group of faddists to which such power is transferred by them tends to be far more tyrannical and unreasonable than any squire or parson and is quite impervious to any personal appeal. This tendency is again reinforced by the desire of the governing class to compel a spoon-fed population to serve the par-

ticular objects of that class at any given moment. These objects may possibly be quite disinterested ; but the point is that they are not the objects of the community as a whole. They comprise either the fads of the plutocrat or the experimental zeal of the political adventurer or the bullying policy of those who enjoy persecution for its own sake.

All this old political machinery will have to be scrapped before any advance can be made to something better. It is clear that all this political megalomania could not have grown up except in countries where the civic spirit had declined in proportion to the size of the suffrage. It was perhaps scarcely to be expected that the ordinary artisan, whose education stopped at the age of thirteen and who paid no income tax, should want to use his vote for any other purpose than to help his Trade Union to obtain more wages and more leisure. The industrial revolution had killed the civic spirit in the inhabitants of the large towns by suddenly multiplying wealth, population, and the size of the whole social fabric simultaneously. An artisan in a town like Leeds in 1850 could scarcely have felt that the Reform Act of 1832 had given him a stake in the country ; whereas his grandfather,

if he had been a yeoman farmer, might well feel that he had something to say in regard to the government of the village in which he lived and even to the choice of the member who was to represent him ; for though he might be bribed to elect a particular member, he had the negative power of refusing.

The question of liberty as promoting and securing individual responsibility is therefore of vital importance to the modern world, and although it is not my intention to formulate any constitution as the embodiment of perfect wisdom, yet I desire to show that all forms of government must in the last resort be judged in proportion to the amount of civic responsibility which they engender, and that a profound respect for individual liberty, both by the legislator and the administrator, is the condition precedent to the establishment of that civic responsibility. All forms of government established to-day on what has been called the "pyramidal principle of power" are ominously cracking, and clearly some new principle must be invoked. I propose to give examples in the following chapters of the extent to which the sense of civic responsibility can be fostered and encouraged by a government which is sincerely anxious to do so,

CHAPTER I

PROPERTY

THE fashionable modern idea about property is that, to quote the old maxim, it is almost invariably a form of theft. The demagogue talks about the "idle rich," while almost every strike is condemned in the press as an attempt to rob the community by violence. This more or less recent spread of wholesale recrimination is undoubtedly due to the attack on property as such which the Collectivists have propagated for the last hundred years. The attack on property no doubt originated in the fallacious idea that if all property were equally divided everyone would be well-to-do. But that delusion has ceased to exist to-day. The ordinary sane citizen will often feel roused against gross forms of profiteering, and also imagine that certain means of production, such as coal, might well be taken over by the State, because this would stop profiteering either by coal-owners or miners; and making allowance for all the blunders of a bureaucracy, the con-

centration of such ownership would probably promote economy of transport and distribution.

But the prejudice of the modern Collectivist against property is no doubt based on a desire to destroy the sense of independence which property necessarily engenders. The Collectivist would much prefer every citizen to be in the same position as an artisan whose fear of dismissal is so constant that he would welcome any secure life-contract even if it entailed an obligation of forced labour. Such a man thinks of everything in terms of a weekly stipend eked out with a variety of doles by way of national insurance and other subsidies which are more usually in kind than in cash. Naturally any man in this position is bound hand and foot to the State, and the rulers of that State can mould the population to suit their own ideas of what that population should be and do.

Much has been written about the irresponsibility of the rich, though it must be clear not only that the "idle rich" are a very small percentage of their class, but also that a vast amount of useful public work, as well as scientific research and literary activity, is carried out by men who are sufficiently well-to-do to be free from the exacting obligations of the ordinary

wage-earner. Yet I do not see how anyone can deny that property entails a certain spirit of responsibility in every person, except probably the spendthrift, who soon ceases to have it. For, in the first place, any person owning property can be made to pay for any injury he causes to others ; and, in the second place, if the person in question is married or has any relations at all, there is inevitably a feeling of parental or family responsibility. There is, moreover, even in the peasant proprietor or the small investor a valuable feeling of independence which gives him or her a certain courage and disinterestedness and which a feeling of dependence either on the State or on other individuals tends to destroy. The modern Collectivist has always tried to discourage the small man from owning the house in which he lives, especially when he happens to live in a town. But surely there can be no question that if a man has money to invest it is better for him to buy a house which he can see and examine for himself rather than shares in a company of which he knows only as much as his broker can tell him. The possession of property must also give any citizen a practical interest in the government of the country and the district in which he lives and thus encourage

a feeling of communal as well as personal responsibility. For any system of taxation is vitally bound up with questions of legislation and administration.

There is also a curious paradox in the fact that a property-less person comes to be regarded by the property-owner as a kind of chattel. This is particularly obvious in the case of women, for so long as a woman was not allowed in law to own property she was regarded, and tended to regard herself, as the property of her husband, and, in the phraseology of the Decalogue, to be next in importance to her husband's house, though superior to his ox and his ass. It will also not be contested that the big employer has always tended to regard his workmen from this point of view, whether he treats them as badly as he did before the Factory Acts, or whether, as in these days, he erects model dwellings for them, but forbids them to drink beer at home.

It is perhaps unnecessary to labour the point that a woman becomes a much more responsible being if she has property. The statute of 1882, which gave her a qualified right of owning property, has by now had time to bear fruit, and I think it will be generally admitted that during the last thirty-five years women have

gained a much livelier sense of personal and civic responsibility than they had before. It is true that a married woman can still snap her fingers at her creditors if, by her marriage settlement her income is subject to a restraint on anticipation, and that her sense of personal responsibility may be blunted by her husband being compelled to pay for her torts. But the mere fact that she can own property, and in some cases can and does earn more than her husband, has profoundly changed the character of the modern woman, who, in some instances, exercises a certain freedom which was formerly the monopoly of her husband.

The lover of liberty can perhaps rely on the modern woman making far greater exertions in the cause than the more jaded modern man. No woman will put up with her property being treated as if it were a soldier's kit. No modern woman is going to sacrifice her feeling of proprietary enjoyment because she is told by the Collectivist that she will promote social cohesion in this way. Women have always been, and always will be, more practical than men, and are never so easily deluded by catch-words. They know in their hearts that the political psychology of the Collectivist is per-

verted and artificial because it does not correspond with, or appeal to, the psychology of the individual.

Mr Belloc has shown in *The Servile State* and other works that the whole operation of economic forces in the modern State is hostile to the small property-owner, and he does not assume, as I do, the instinctive hostility felt by the plutocrat and politician against the small man, partly because the politician wants the small man not to be independent, and partly because the small man when propertyless "falls into line" with the quasi-military *cadres* which Collectivism has set up. No doubt, however, the economic forces are very strong, as Mr Belloc writes in a recent article on the reconstruction of private property.

"If you levy a tax you levy it most easily by levying it at source and leaving the complainant to recover at his leisure against the State. It is the small man who will be overtaxed if the line of least resistance is followed. The greater accumulation of wealth obviously possesses greater opportunities for information, and even for judgment. It can wait longer. It can work at a lower potential. Its comparative ex-

penses are less. To use a metaphor, it pays less for oil. All the machinery that spontaneously arises in the conduct of commerce makes for the ease of the large accumulation, for the difficulty of the small, and for the extinction of the minute.

“To take but one instance, which we shall see later, to be of capital importance—the interest paid upon money lent. Leave it to the mere play of exchange and the rate will, at a given time and place, be equalised for most sums. You will get your 3 per cent. or your 5 per cent. upon £100 lying upon deposit or in some guaranteed security, and you will equally get it upon a million. The only ironic exception to such a rule is the truth, denied in theory but obvious in practice, that when you are dealing with very small sums, you cannot get any interest at all.

“Now it is obvious that the incentive to accumulation is not the same with a large sum as with a small sum. If a man has £10,000, and lets it sleep at £300 a year, he may feel content; he has an income upon which he can live; but a man with £100, obtaining £3 a year, is in a completely different psychological position. There is no particular reason why a man

possessed of £100 should take the trouble to go without it in order to obtain rather less than 2s. a week. £100 represents a real power of immediate enjoyment, which is not compensated for by less than 1s. 6d. a week. But £10,000 does not represent any such thing. It is 'a sum to invest'! That is still more true of £100,000. Unless you counteract this natural tendency artificially, unless you do in the economic field what man does or should do in every other field, that is, counteract blind tendency, you will naturally have a great accumulation increasing and small accumulations dying out. Nothing can save such a process but subsidy, and subsidy cannot be given save by authority in some form.

"That is only one example out of hundreds, but it is sufficient. Leaving out all question of corruption—a large omission—leaving out the power of great wealth to bribe public servants, to frighten them, to advertise them, and nowadays to appoint them, the purest and best and most courageous administration in the world would still see the small man eaten up by the great man, unless it deliberately counteracted the tendency with the strength of public authority."

Mr Belloc here says nothing of the hardships suffered by the lower middle class who buy their own houses or small plots of land. This type of owner is much encouraged in France, while the French Government also provides the poor man with banking facilities. The Post Office Savings Bank is useless for this purpose in England, and the consequence is that poor men's banks are always being started and that the savings of poor men being much less important than the superfluity of the rich, the directors of the poor men's bank speculate outrageously with poor men's money without apparently committing any criminal offence, for they are not usually prosecuted. The hardship presses in another way on the poor, because if a poor man wishes to send money through the post he has to do it by buying a specially prepared envelope for purposes of registration; but if, as sometimes happens, the envelope is tampered with and money extracted, the Postmaster-General is at liberty to suggest that the addressee or his clerk tampered with the envelope, and the Postmaster-General is constituted a judge in his own cause, so that he cannot be sued for the money.

There are, in short, many respects in which

elementary justice could be provided for the poor man before embarking on the more elaborate legislation which Mr Belloc proposes. The topic is perhaps not worth pursuing, because no fashionable politician really cares much about any liberty or property except his own and that of his masters.

CHAPTER II

THE VALUE OF A VOTE

Nothing was more sacrosanct in the political philosophy of the nineteenth century than the vote. It was so important that the question of who or who should not have a vote could and did cause revolutions, and even civil wars. The voter was credited with something like supernatural powers. He was superior to other men who had none, and especially to women. A vote had to be protected by the secrecy of the ballot and was worth a considerable sum of money in bribes to its possessor, until the modern politician discovered how much more profitable it is to bribe a class than an individual, and has elaborately legalised the process by a very recent statute. This Act carries the process further by authorising any organisation to spend money on propaganda which no individual would be allowed to do. To the younger generation the disturbances of the Reform Bill may seem dim and distant ; but almost everyone can remember the "frightful-

ness" of women who were frantic to have a vote at a time when a vote had long ceased to be of practical importance; just as many other people are trying to reform the laws of divorce when the laws of marriage are progressively disregarded.

Parliamentary government has by now become as much of a sham as the vote. The administration which floated into power in December 1918 on a broad stream of public money has inaugurated what has been called "the government of the democrat by the bureaucrat for the plutocrat." We see the Germans on the other side of the North Sea taking up parliamentary government with all the enthusiasm displayed by the British middle class in 1832. We see the Americans across the Atlantic scrapping their parliamentary system for all purposes of practical administration as rigorously as we have scrapped ours. It is the day of the Man—namely, Wilson, Clemenceau, and Lloyd George. It is the Man who creates his own press and propaganda with the same cynical vigour as the ex-Kaiser of Germany. The voter has long resigned himself to a feeling of paralysis. No journal can print any really destructive criticism of the Government without losing its capital, its advertisements, and its means

of obtaining information from bureaucratic sources. The private Member of Parliament is not allowed any time in the House of Commons, and the only remnant of civic responsibility remains with the bureaucrat and his friends and relations.

If we analyse the sovereignty of modern England we find it queerly distributed among a number of individuals. The old plutocrat who used to pull the strings of power through contributions to the party funds has been replaced by newspaper magnates and the purchasers of ministries. From them sovereignty descends in a golden shower upon the Man or Men who are entrusted with the arduous duty of persuading the mass of the people that they are getting what they want, and that the artificial blockade of essential foods and liquors at a moment when everyone is underfed and therefore suffering from epidemics is a miraculous feat of political wisdom, instead of being the obvious result of bureaucratic stupidity and administrative incapacity. The poorer classes are soothed by a quantity of capricious doles which are eagerly seized on by individuals whose political discontent cannot long steel them against an overpowering temptation to dishonesty. No one who has had

anything to do with the administration of the Unemployment Fund by the Labour Exchanges, especially in Ireland, can dispute the accuracy of this description.

The other main stream of sovereignty is derived from a bureaucracy from which the old type of public-spirited civil servant has been ruthlessly uprooted. There are of course rare instances where a civil servant has been able to assert himself against the threats of the Man and his newspaper myrmidons, such as a prominent official at the Admiralty, who at one stage of the war may be said to have had as much sovereignty as the War Cabinet itself or perhaps more. But most civil servants have been given clearly to understand that their emoluments as well as their authority may at any moment vanish if they refuse to toe the line to the nominee or nominees of the Man. At the same time the civil servant has also the temptation of knowing that any subservience on his part will increase his salary and enable him to obtain jobs or other benefits for his relations and friends. This represents an infinitesimal parcelling-out of sovereignty, which simultaneously increases the power of the Cabinet and the popularity of the bureaucracy, and both these results will be achieved beyond the possi-

bility of reform at the moment when, by a small majority, the population are either bureaucrats themselves or are in some way dependent upon bureaucratic favour, whether it be for coal or food or intoxicating liquor.

There can be no doubt that the good as well as the bad side of bureaucracy is infinitely distasteful to British men and women. Bureaucracy is contrary to all their traditions of liberty, and, unlike the Germans, they temperamentally associate bureaucracy with inefficiency. This is not unreasonable, because the driving *vis a tergo* of successful bureaucracy such as we have seen in Germany and Russia is absolutely foreign to the British mind. There must be few citizens to-day who have not some knowledge of how bureaucracy works. It is perhaps superfluous to inform any reader that a Government office in Great Britain is operated by a vast horde of individuals of all ages and both sexes. On a generous calculation, about 20 per cent. of these individuals are interested in what they are doing and frequently destroy their health and prospects by the excessive exertion which is required in order to make up for the happy indolence of their colleagues. The workers suffer, perhaps permanently, in health, while the drones continue

to draw generous salaries in peace and security. Now it is clear that bureaucracy of this kind is absolutely useless except as a pillar of corruption, and I am often tempted to suppose that corruption in the sense of bribing the community to support a particular administration or set of individuals is the only *raison d'être* of bureaucracy as we see it in Great Britain to-day. On the other hand, one must allow for the mental confusion induced by the Collectivist propaganda, which makes many honest, well-meaning citizens believe that enormous public good must necessarily be achieved by filling large hotels with well-dressed crowds of officials. One must never forget, and no politician ever does forget, the effect of grandiosity on the mind, and especially the vulgar mind. I have, for instance, come across an appreciable number of persons who are far more ready to believe in the Catholic faith after looking at Westminster Cathedral than before.

The most interesting problem to-day is whether the British people are predestined to let bureaucracy run its course. M. Gustave le Bon, in his well-known book on the psychology of crowds, describes a regular cycle in which bureaucracy is an active factor in the decline of the modern State. The bureaucrats acquire

power because they are necessarily more stable than ministries, and the ministries are always having to compete with each other for the favours of this administrative caste. Meanwhile the citizen loses initiative and ceases to resent any attack on liberty, especially if he obtains money or favours for himself and his friends. Again, the growing disintegration of society as a whole increases the power of the bureaucrat, who becomes like the phagocyte, which, originally protecting the body against disease, itself devours the body of the old man.

It is, of course, true that as people become more civilised they do not want to be worried about the machinery of government except as it affects themselves personally. Mr H. Fielding Hall, in his book *The Soul of a People*, pointed out that the Burmese Government before the days of British annexation produced and supported the usual number of high officials with no public spirit or conscience. But this administration at any rate did not interfere with the people. It let them alone, and on that account the Burmese people have always tolerated a government of this kind. Exactly the same may be said of the British Government up to 1880; but we have now lived into a period when

personal liberty is in certain instances as grossly and frequently violated as it was in the days of Thomas Cromwell, and the interesting question before us is whether the British people can be cajoled into standing this kind of interference by the corruption which accompanies the setting up of a huge bureaucracy. The universal rush of recruits to repel the German attack in August 1914 might lead one to suppose that Britons never will be slaves. On the other hand, the whole process which I have been describing is so tortuous, and the newspaper propaganda behind it so insidious and comprehensive, that the whole system of the servile and bureaucratic State may easily be set up while the people are asleep ; and, as De Montesquieu has remarked, "*La servitude commence toujours par le sommeil.*"

The modern Collectivist tries to justify the abuses of our own time by dwelling on the miseries produced in the first half of the nineteenth century by what is called Individualism. In those days the voter did count, perhaps because the franchise was not so widely extended and because the voter was educated to know what he did want and what he did not want. The modern man is naturally shocked when he learns that Bright and Cobden defended the manu-

facturers against Lord Shaftesbury's reforms, without reflecting that many more eminent men have stoutly defended the solution of war as being the only decent solution of any serious international dispute. The English Liberal was so anxious to promote liberty that he overlooked the ideal of equality, and forgot that the right of a workman to sell his labour as he pleases may be severely limited if he is pitted against the Capitalist employer without a right of combination. The Benthamite climate of opinion, which resulted in the Combination Act of 1825, was intended to promote the individual freedom of a workman to dispose of his labour as he thought fit and of the master to manage his business in the way he thought fit. The Benthamites were genuinely anxious to preserve the common law right of a man to dispose of his labour as he pleased.

This question has been recently raised in an acute form in the case of a man called Frederick Valentine.¹ He was a member of the Amalgamated Society of Engineers, and was invited to join the Union of the Amalgamated Society of Railway Vehicle Builders. The two officials

¹ I have used the report in *The Times* of the 7th March 1919. The italics are mine.

of this Union, namely, Joseph Hyde and John Howard, insisted that Valentine must join their Union, but the A.S.E. would not permit Valentine to do so. Hyde and Howard then told the colliery company which employed all parties that they would strike unless the company dismissed Valentine. The hardship to Valentine was summarised by Mr Justice Astbury as follows :—

“ After twenty-four years of service and after paying his trade union subscriptions for thirty-seven years, the plaintiff, at sixty-one years of age, was told in effect by his fellow-workmen: ‘ Unless you sacrifice the benefit of your thirty-seven years’ payments and join our union, not because you have not complied with all our conditions of labour, but because we choose to be the judges of what union you shall belong to, if you work at a colliery when we are in a majority we will obtain your dismissal by your employers, though they have no fault to find with you.’ The plaintiff was not standing in the defendants’ way as to employment, wages, or conditions of service, and he and the other handful of men were impotent against the rest of the six thousand. Nevertheless, he was given the alternatives, to do as he was ordered and be

damned by losing his thirty-seven years' union benefit, or to refuse and be punished by being driven out of his employment. If a free man belonging to a trade union of which he had been a member during the greater part, if not the whole, of his working life could in this country, under the common law or by statute, be victimised and injured in that fashion without redress, the action must, of course, fail. The plaintiff contended in these circumstances, apart from the Trade Disputes Act, which was relied on (*inter alia*) by the defendants, that the defendants had severally, and conspiring together in combination, unlawfully molested and threatened to molest him in disposing of his labour, and had interfered and threatened to interfere with him in his employment without justification, with intent to injure him."

It is perhaps not surprising that the judge gave Valentine what he asked, namely, an injunction to restrain Hyde and Howard from inducing the company to break a contract of employment with him or from interfering or attempting to interfere with his employment or his right to dispose of his labour as he pleased. It is also perhaps not surprising that the defendants expected to find

the Trade Disputes Act 1906 a complete defence ; but if we are to choose between the Combination Act 1825 and the Trade Disputes Act 1906, I think that there is more real equity in the former statute.¹ The cardinal mistake, of course, was that the position of the trade union was never logically defined. Trade unions ought to have been recognised by the law long before 1871 and given the ordinary responsibilities of a corporation. The denial of legal recognition for so long a period has simply resulted in the trade union having a legal status without any responsibility.

The present situation certainly shows that the individual workman is losing his liberty almost as fast as the individual employer. But, however pleasing this may be to the Collectivist mind, it does not point to bureaucracy being popular. On the contrary, the one desire of men and masters is to escape bureaucratic control, which they will certainly do when once they can create a machinery for settling industrial differences. In more revolutionary circles the Collectivist is being ousted by the Syndicalist, who also wishes to oust the State

¹ My view is confirmed by that of Professor Dicey in his *Law and Opinion in England*, London, 1905.

from the ownership, and probably also the control, of industrial concerns.

The Collectivist may admit that labour conditions are better settled between master and man without State interference ; but he will point to Individualism as the main cause of the wretched housing that we see in large manufacturing cities. He will quite rightly point out that town-planning schemes of the kind which have prevailed in Germany for many years past would have resulted in far better housing for the ordinary citizen. On this point, however, I cannot see why the utter apathy of municipal authorities in the nineteenth century to what was really their business should be called Individualism. For a municipal body to plan out the buildings and streets of a large city or town and to ensure a certain amount of cubic space or even a garden for each house implies no disturbance of normal liberty ; although regulations against cab - whistling, piano-playing, and canine or feline noises may seem to the British mind more debatable. The test of individual liberty is not whether two or three individuals in a crowded area are restrained by a large majority of their neighbours from acts which annoy that majority, but whether

the restrictions imposed are imposed from above and do not really represent the wishes of the majority. A policeman could always enter a poor man's flat in Berlin and forcibly open the windows in any weather, whether the man wanted them open or not, and no doubt London policemen will soon be entitled to enter any house rated at less than £50 a year and take away intoxicating liquor, or drawings or books which he in his wisdom may consider obscene. But in neither case will the right of the policeman represent a majority of citizens. It will represent the activities of a sanctimonious minority who have managed to capture the machine of executive government, whether central or local.

Modern communities have now become so enormous that what we want in politics is something equivalent either to the Co-operative Movement or a Consumers' League. The analogy to the Co-operative Movement would be a highly perfected scheme of local government on the lines of what is known as Devolution, and which would thus not only relieve the congestion of the Imperial Parliament but would also clarify local and Imperial issues. The analogy to the Consumers' League would

be the establishment of such devices as the *Recall* and the *Referendum*. By the *Recall* a certain proportion of electors should at any time have the right to demand a general poll on the question whether the elected representative was carrying out the programme which he was elected to support. The device of the *Referendum* in democratic countries is well known; but it ought also to be reinforced by the right of a certain proportion of the electors to put it in force without waiting for the legislature to do so. Such devices would be a salutary check on the tyranny of the *caucus*, which can never be controlled by the exercise of a vote once in five years. It would certainly prevent the outrageous interference with liberty which is due to the arrogant attitude of the politician and his paymaster to the rest of the population, and this popular control would certainly remove many causes of what the journalist calls "unrest" without destroying continuity of administration in regard to complicated matters, concerning which the country must necessarily leave some discretion to the executive. The discretionary power of the executive need not for one moment involve supporting the grotesque legend, according to

which a number of adventurers and gutter-snipes claim a sort of divine right to control not only the habits but even the opinions of the individual as if they had been sent from Heaven for the purpose. So long as this right remains unchallenged a vote cannot confer any civic responsibility on the voter.

CHAPTER III

FREEDOM OF DISCUSSION

IN a former book on this subject¹ I wrote that freedom of discussion reposed on four main conditions: (1) a common faith in the rationality of the individual citizen; (2) a sense of external and internal security; (3) a conviction that discussion on any given subject cannot in the last resort be suppressed; and (4) that the State must be the final arbiter of discussion for the sake of law and order.

During the war, and for perhaps a decade before it, it was only too clear that the community was losing faith in the rationality of the individual citizen, and during the war we also lost at certain intervals the old sense of internal and external security. The result of this has been a curious inversion of the whole problem of free discussion. I am old enough to remember a time when the students of this problem were principally occupied with the

¹ *Decline of Liberty in England*, London, 1916.

question how far the State should go in protecting the preacher of unpopular doctrines from violence. In what seems to the modern eye to be almost a pre-historic era, there was a Liberal Party which profoundly respected a certain tradition of liberal doctrine. The respect for the conscience of the individual was pushed to extremes. It was held to justify resistance to vaccination, and perhaps its last kick was the legislation about the Conscientious Objector to military service. I can remember a period—let us say the late nineties—when it would have been thought cynical to suggest that the State would allow any violence to be threatened to such assemblies as pro-Boer meetings. Events of the last twenty years have made most of us sadder and wiser men in regard to this problem as well as many others. No champion of liberty could have expected much toleration of downright attacks on the activities of the State in carrying on a war not only for national existence but also for all conditions that would make human existence at all decent. On the other hand, we might have been spared the discreditable authorisation by the governing classes, not only of attacks on peace meetings, but also of persecution and torture in the case of unques-

tionably sincere conscientious objectors. Wise statesmen like Napoleon and Frederick the Great adopted in this connection an attitude best summarised in the famous line of Dante, "*Non ragionam di lor ma guarda e passa.*"

It is, however, useless to dwell on old memories. We must face the fact that "Liberalism" and "Liberals," especially without the capital L, are both dead as a door-nail. The eclipse of faith in our fellow-men and in our old security has resulted in the State trying to govern this country precisely as the ex-Kaiser began governing Germany as from the date of his accession. The governing class of Great Britain have now set up a machinery of administration which depends on ruling by newspapers and creating a public opinion by every sort of propaganda. There is perhaps no great objection to any modern State resorting to propaganda in foreign countries; but there is every objection to any given Ministry setting up propaganda under the *ægis* of the State on its own behalf. Any political party must necessarily rely on propaganda for its support. But it is quite a different matter for a Cabinet to resort to propaganda which is financed out of the taxes and carried on under the prestige of a national mandate.

I need not here recapitulate the facts set out in Mr Belloc's book on the free Press or the remarks in the last chapter on the financial and other disabilities of any journal which candidly criticises a modern government. It is, however, clear that the present condition of things may easily end in disaster if it continues, for it reposes on a deep-seated contempt for the people. The politician has an accurate picture in his mind of the whole population peacefully reading and apparently believing the unpalatable nonsense that is served up to them by the Government through the columns of the popular newspapers. But the politician does not hear the cynical and not always tolerant comments made about himself and his masters in any railway carriage or place of popular resort. The politician really thinks that the people at large are following his lead, and imagines that in the last resort he can always act on the old Roman maxim, *Divide et impera*. He does not understand that the apparent absence of criticism and opposition is due to a certain mental apathy and indolence which must one day break down when the politician achieves his top note of imbecility.

It is exceedingly unfortunate for the country that the type of person who now rules it has

frequently "risen from the ranks," as he would say, and regards the common mass of people with inhuman hostility and depreciation. The old type of politician was either a big landowner like the Duke of Devonshire, or a successful business man like the late Mr Chamberlain. The landowner may have prejudices in regard to the ownership of land; but he knows the life of the country and is usually on quite friendly terms with his servants and his tenants. It was, in fact, the landowners whose public spirit saved the land in the worst disasters of what used to be called "agricultural depression" in the early eighties. In any case the landowner understands men of all ranks and regards them as his friends. Again, the successful business man has not usually made his fortune without relying to a great extent upon skilled subordinates in every rank of life, and will understand how to manage other men.

But the modern politician has usually emerged from the environment of shabby-genteel villadom, which leaves him entirely ignorant of the rustic population and usually hostile to his fellow-citizens. He has no use for sound sense or sincerity as compared with verbal dexterity and gentility. He is not acquainted with the basic

arts of life, such as, for example, the preparation of good food or drink. He wins his way either as a professional agitator or as a rather second-rate lawyer. This type of man has so few human links with the community that he naturally fears and despises it. He thinks of it always as a kind of mob, and perceives that it may be very dangerous if it thinks for itself. He must therefore tell it what to think and obtain the necessary funds from the taxes as part of the self-protection which is due to a politician.

Such is the condition of free speech in modern Britain. The modern politician is not satisfied with depriving the citizen of financial and civic responsibility; what he now insists on is a machinery by which he will eliminate the intellectual responsibility of the individual, not only by telling him what to think but also by perverting the facts in a spoon-fed press. The tyranny of the Church has only been displaced by the tyranny of the State.

The tyranny of the Church was at least excused by the fact that it professed to achieve the eternal salvation of the individual at the expense of such luxuries as intellectual liberty; but the tyranny of the modern State never had any better excuse

than that of Germany, namely, world dominion. At the present time the modern State has not even that excuse, and is merely stultifying itself by new educational schemes if the people are not to be allowed to think for themselves and are only to be taught to think like the Government. There might be no objection to ministerial propaganda if the Government merely set out to explain what it was trying to do and the reasons of its policy. But most propaganda of this kind seems definitely designed to obscure and conceal the political programme with which it deals. The last thing that the modern Government ever wants to do is to trust the people. The above policy is of course largely justified in war time, when the exigencies of the situation demand that all administration shall be sufficiently unified to concentrate national thought and labour on any given emergency. But there is now no reason whatever why any modern Government should be run on these lines if the League of Nations is to be taken at all seriously. In any case, the politicians of Great Britain initiated this policy of Prussian administration long before the war, because they found it the most convenient method of carrying on the government of the country. If it is necessary to fix any date in the burking

of facts by the Executive, perhaps the first overt occasion was the Parliamentary Commission which sat on the Jameson Raid, and later on the whole history of the Marconi Inquiry, followed by the prosecution of Mr Cecil Chesterton.

The modern politician may indeed congratulate himself on having abolished the stake and the gallows where freedom of speech is concerned, as well as an institution like the Press Gang, which existed in peace as well as in war time. But he has of course discovered far more effective weapons for the suppression of free discussion. He can tacitly encourage a certain amount of mob violence, he can use the Law Courts for collusive libel actions and other proceedings, and he can also obtain a wide monopoly of printing and publishing facilities.

Perhaps it may one day dawn upon politicians that for anything in the nature of genuine democracy there must be such a thing as what Rousseau called "the general will." We see to-day exhibitions of the general will in such manifestations as the cry of more beer for the workers, after the whole Press has told the workers for three years that they must not have beer because it spoils their efficiency. Perhaps

the most palpable manifestation of the general will is when it expresses its hatred of a given administration, as when the Unionist Government was swept from power in the election of 1906. But any citizen who wishes to see a democratic administration established instead of an oligarchy or a quasi-military tyranny must necessarily look forward to a period when all citizens are sufficiently instructed and alert in mind to understand in a disinterested way all that good government means and all that it stands for.

I do not mean to suggest that a democracy means anything in the nature of a millennium. Like all human institutions, it must involve much imperfect and hastily improvised work and much crude stupidity of thought. But the fact remains that the great mass of the governed will always be cheated and exploited by successive political groups unless there exists a machinery for expressing the general will. And the general will is useless for this purpose if it is not properly informed about contemporary events. The arguments against secret politics are quite as cogent as those against secret diplomacy ; and it is precisely this tendency to secrecy in politics and administration that is to-day the most

formidable obstacle to any real freedom of discussion ; while from the point of view of the democrat, or in fact any wise student of politics, freedom of discussion is as essential to political purity as aseptics are to bodily health.

CHAPTER IV

PRIVATE MORALS

THE attitude of the State to questions of private morals has never been at all clearly thought out or formulated either in this country or in any English-speaking community. On the other hand, most European legislation is based on clear principles more or less directly or indirectly derived from the Napoleonic code. The historical reason for this is probably that Napoleon definitely cleared away much ecclesiastical jurisdiction, whereas in Great Britain and the United States the State has always shown a certain tendency to imitate Church or Chapel interference in regard to what may be called "private offences."

By private morals I mean such conduct as does not obviously disturb the King's peace. Murder and theft must naturally be the subject-matter of the criminal law, whereas that part of conduct which relates to dealings with individuals apart from the common tie of citizenship is no

doubt best left to the rewards and punishments prescribed by public opinion. Now the State is neither a church, nor a social group, nor a family, and the State is only concerned to buttress up good morals by punishing offences which lead to a breach of the peace and gross injury to persons or property. The State has no business to arrogate to itself the powers of the Inquisition for inquiring into depraved opinions or to punish offences of the kind which Mill loosely called "self-regarding," as, for instance, peaceful drunkenness in the home. The Church was concerned with the eternal welfare of the human soul, but the State has no such justification for its interference; and a Prime Minister is not a Pope.

Some critics of my last book on liberty suggested that I was as intolerant as John Stuart Mill in regard to the interference of the social group with questions of private morals. I did not mean to convey this impression. Any problem of conduct ceases to be a question of private morals if it disturbs social peace. The social group, the family, and the club are of course all entitled to ostracise an offending individual, though they are not entitled to the remedy of boycott if it involves social injury. I conceive

that the function of the State is never to interfere in such matters unless the offence in question has stirred up a social resentment which disturbs social peace and order, and the State does great harm if, on the contrary, it allows a person with a private grudge to use the law merely in order to gratify it.

The law of Great Britain does in fact exactly observe these principles in regard to adultery, which is a criminal offence in most Latin countries and in India, but not in Great Britain. In the past the Church could, of course, always deal severely with adultery by excommunication, and up to 1884 the High Court could and did imprison any spouse who did not obey a decree for restitution of conjugal rights. As from 1884 the abolition of such imprisonment establishes the neutrality of the State in regard to adultery, except that the State does always interfere with a husband who shoots his wife's lover, though it certainly does not interfere with such manifestations of disapproval as the beating of kettles outside the house where adultery is committed, as sometimes happens in a certain Buckinghamshire village. The attitude of the State may quite reasonably be summed up in a maxim which Mr H. G. Wells puts into the mouth of

a solicitor at the end of his novel, *The Wife of Sir Isaac Harman*: "A row's a row and damned disgraceful; when there's not a row nothing's disgraceful."

The State, however, is entitled to interfere in time of war in regard to offences which in time of peace might be ignored as "self-regarding." The State can obviously punish self-mutilation in order to escape military service, and on this ground also, any attempt in suicide. For the same reason it can properly punish indulgence in drink or drugs or any conduct which either by commission or omission tends to spread venereal disease. On the other hand, I cannot see why the State should have any power to force a private citizen in normal times either to die in an infirmary instead of at home or to suffer a surgical operation which is essential to saving life. I consider that the private citizen should be permitted to die in whatever manner he thinks fit, and that in normal times he should certainly be allowed to commit suicide if he desires to do so. I claim these rights for the individual not merely because I feel that the State has no right to step into the shoes of the Church, but also because the State has quite enough on its hands already, and directly it

pries into the sphere of private morals it merely indulges the passions of some bullying or persecuting person or persons, and, what is much worse, brings the law generally into contempt.¹

There is a grave danger that the State may step into the shoes of the Church by continuing a course of legislation that could alone be justified by the exigencies of war. Thus hitherto the State has always punished drunkenness only when it became disorderly, whereas now there is a strong tendency to set up a permanent embargo on the consumption of fermented liquor or indulgence in drugs. It is ridiculous to punish a Chinaman in London for smoking opium, which is as normal for him as it is for an Englishman to smoke tobacco, and it is to be hoped that British fanatics of this kind may one day find themselves imprisoned in the United States for taking a glass of beer or smoking a cigarette.

Again, the attitude of the State in Great Britain to the gambling of the poor is purely ecclesiastical, for no one can suggest that a game of pitch-and-toss in a street corner is going to

¹ This also applies to the activity of philanthropists who pry into the lives of the poor under the pretence of doing them good, but really to indulge a censorious curiosity.

disturb the King's peace. How dangerous this interference can be was shown in the recent disturbance which followed the interference of the police with some American and Colonial soldiers who were playing a game of chance in Aldwych and whose arrest provoked a deep and natural resentment in their companions-in-arms. Incidents of this kind will certainly tend to increase if our own soldiers find that they are punished for amusements so venial that they are not even repugnant to military discipline. The mischief of all State interference in these matters is not merely that it brings the law into contempt but that it obscures the distinction between good and bad conduct, and therefore lowers the value of what may be called the moral currency, namely, any sound average notions of right and wrong.

A particular instance of stupidity in reviving ecclesiastical crimes is the recent legislation on the question of incest. The statutory provision that these cases were to be heard *in camera* led to widespread ignorance of the law; and the generally un-English nature of the proceedings roused the indignation of English judges. Unlike the ordinary citizen or member of Parliament, the English judge is well aware

that the existing legislation for the protection of young persons is quite sufficient to protect the young from their parents, and that offences between persons of years of discretion no more concern the modern State than the domestic traditions of the Pharaohs.

The whole position to-day is also much aggravated by a steady deterioration in police methods. The police have actually employed male prostitutes in order to prosecute suspected individuals, and, to take a recent case, they most unjustifiably arrested a young man of absolutely unblemished reputation on some homosexual charge, and were shown to have lied to so scandalous an extent that the prosecution had to be dismissed with as much speed as possible.¹

There is no doubt whatever that the modern State tends to diminish all moral responsibility in the individual by treating him like an automaton. Nothing is more obvious than that in the mass men who are put upon their honour will always behave better than men who are always being bullied and persecuted and interfered with about trivial matters. It should be the function of the State to encourage as far as possible the feeling of moral responsibility

¹ This case is by no means exceptional.

of men and women and to leave as much as possible to their sense of decency and right. In this way crimes of violence have enormously decreased in modern Britain, and even a police strike does not upset public order. The State would be wise to adopt this line in regard to all matters, and to turn a deaf ear to the ever-increasing mob of cranks and faddists who want, as Fitzjames Stephen wrote, to pull out an eyelash with a pair of tongs. This particularly applies to questions of personal habits, such as games of chance, the consumption of fermented liquor, the smoking of tobacco, and sexual eccentricity in cases where the young are not concerned. In short, the State must always remember that its sanctions are temporal, not eternal, and that in time of peace it cannot properly assume the powers that are justified by the exigencies of war.

CHAPTER V

HUSBAND AND WIFE

IN this chapter I intend to deal with the question of conjugal responsibility before the law, but to eliminate the question of children, with which I shall deal in the following chapter. We do not expect the State to enforce anything but what may be called legal good conduct, namely, to give relief to one spouse if the other commits some matrimonial offence such as cruelty, desertion, or adultery, and to safeguard the just economic claims of one spouse against the other. One cannot expect a judge always to decide whether any given marriage secures the "mutual society, help, and comfort that the one ought to have of the other, both in prosperity and adversity," nor can the State compel any husband and wife to "love and to cherish one another in sickness and health," etc. The Catholic Church no doubt tried to do this to some extent, and could in the last resort enforce its exhortations by excommunication; but the State can do nothing

better than give a husband and wife reasonable liberty and negatively promote just dealing. The non-interference of the State in regard to the more personal and more intimate side of marriage was established in 1884. In that year the penalty of imprisonment was abolished when one spouse refused to obey the decree of the court for restitution of conjugal rights, and it is to be hoped that our Collectivist priests and presbyters will not attempt to revive the ecclesiastical prerogative of the State in this respect.

Let us now see how the State tries to sanction a sense of responsibility based on liberty in a married couple, and what inducement it gives young men and women to get married at all.

Let us first take the position of the young woman. In these days she may very likely be earning money on her own account by work which is useful to the community. If she is well informed she will realise that by marriage she will probably have to pay a heavier tax on her income, since for income tax purposes it will be combined with that of her husband. If she looks after her husband's house, and even if she does not have children, she will lose her earning power and have no right to any remuneration from her husband for doing

housework the hours of which are in no case limited. Poor women have been known to say that they are more in the husband's power if they are married than if they are not, since marriage is a servitude, while an unmarried woman can always make her own bargain from time to time. The State cannot compel the husband to do more than keep his wife out of the workhouse so long as he commits no matrimonial offence, and it is not difficult to realise that the conduct of a husband may be exceedingly objectionable even if it cannot be classified as a matrimonial offence. There is, however, one matrimonial offence, namely, adultery, for which the wife has no remedy at all if she is too poor to file a petition in the High Court for a divorce, or if the husband is too poor for her to obtain security against him for costs on the High Court scale. Even if these disabilities do not exist, all she can obtain from the High Court is a decree of separation, but not divorce. This is, of course, a monstrous injustice in cases where the husband's adultery is a real and substantial grievance. If the adultery is from the wife's point of view venial, then the law is not concerned in any way; but there are many persons who seem to suppose that a wife should

be coerced into condoning her husband's adultery by a law which is clearly unjust.

If the husband commits the more cowardly offence of desertion, the wife, whether rich or poor, has to wait two years for a divorce and can then only obtain her decree after proving adultery as well, which is in such cases almost always impossible. The divorce decrees which are given on the strength of what is called "statutory desertion" and adultery are nearly always in the nature of divorce by consent, and therefore do not relieve the hardship produced by real desertion. Again, a wife who applies for relief in the police courts on the strength of five months' desertion generally makes her case worse, for she often obtains a separation order which *ipso facto* makes it impossible for the husband to desert her for two years.

On the other hand, what has a young man to gain by marriage? If his wife has money his income is equally blended with hers for purposes of income tax. The law allows his wife to desert him at the church door or at any other time with absolute impunity, and he cannot divorce her unless he proves adultery. If she has rich friends she can bring any matrimonial proceedings against him without his being able

to defend them if he is poor. So long as she is living with him she can steal any property of his and hand it over to a lover without being convicted, so long as she stays at home, of larceny. If she has a child by another man he may be willing to forgive her, and in fact will be wise to do so if he is too poor to obtain a divorce. But at the same time, if he does so, his wife has no financial remedy against the father of the child. He has to pay damages in respect of any of his wife's torts such as libel or slander, and she can also ruin his life by incessant libel and slander without being guilty of legal cruelty, as was established in the famous case of *Russell v. Russell*. Needless to say, no spouse can sue another for slander or libel, since for this purpose the law regards them as one person.

I need not perhaps dwell on the more difficult problems which arise from life-long insanity, dipsomania, or drug-taking, or life-long imprisonment. On such points the State preserves a rhadamanthine neutrality, and it is clear that problems arising from misconduct of any kind must be set right before there is any hope of tackling problems which arise from disease. At the same time it may be remembered that the question of divorce is much less complicated

where there are no children, and in this case it is difficult to see what public mischief could result from the dissolution of a childless marriage, especially when we consider the number of cases in which a childless marriage drives one or other of the spouses into parentage outside the legal tie. There has always been a steady average of about 40,000 illegitimate children a year in this country, and this number has been considerably increased during the year 1918. The maltreatment and mortality of these children is sufficiently notorious to stir some humanitarian feeling, even if it is beneath the notice of the politician. The State is curiously perverse in clinging to and enforcing the obsolete doctrines of the Catholic Church in regard to sacramental marriage without attempting to imitate the worldly wisdom which distinguished the Church in all questions concerning marriage, and which did much to mitigate the inevitable hardships of those doctrines. The State makes marriage ridiculously easy ; it provides no machinery for reconciliation ; and has never even adopted the very useful proposals of the Divorce Commission for annulling marriages where the wife turns out to be pregnant by another man before marriage, or where either party conceals so grave a fact as

insanity or infectious venereal disease. It should be noted that these proposals were unanimously recommended by all the Commissioners, including the Archbishop of York. Accordingly the marriage laws of the State embody all the disadvantages and none of the advantages which are bound up with a wise ecclesiastical system, and if the State is to justify any marriage law at all, it can only do so by an appeal to public policy, which may not bind churchmen as such but which does bind them in the capacity of citizens, as most churchmen are the first to admit. It is in fact odd that churchmen, so far from insisting on the sacred infallibility of theological doctrine, in these days try to justify Christian marriage entirely as a matter of public policy.

In a matter of such fundamental importance as marriage it is difficult for any writer to be content with merely negative criticism, and I venture to suggest a few respects in which the need for reform seems to be beyond controversy. In the first place, it is clear that the law of England should follow the just and wise policy which prevails in Scotland and in most other civilised communities, namely, that a child should be legitimated by subsequent marriage, or possibly that there should be no distinction

between legitimacy and illegitimacy except as regards the child's relationship to the father. It is obviously ridiculous that an illegitimate child should not be related to its mother and should have no right of inheritance from her. There ought certainly to be far better arrangements in regard to affiliation orders ; the allowance should bear some proportion to the father's means, and considering even no more than the interests of the child, there ought to be the same amount of privacy as the children of the rich obtain in the Chancery Division in regard to such questions as the custody of a ward of Court.

In regard to marriage itself, the first thing the State should do is to give the wife better financial security. Even if a husband has committed no matrimonial offence there ought to be some machinery whereby the wife can enforce a reasonable claim against her husband's earnings or property for maintenance, and this is of course even more important in cases where a matrimonial offence has been committed. At the present day the State does not provide anything like proper machinery for enforcing the claims of a deserted wife against the husband, while, like a dog in the manger, it refuses her any right

of divorce, which would at least enable her to obtain the protection and financial support of another man. Such machinery could not in any event be more inquisitorial than that of the National Insurance Act and other statutes which deny privacy to the poor, and recent American experiments make it clear that the State can do far more in this direction than has been done in this country.

Finally, on the question of divorce, I can see no better solution than that the State should allow either spouse to apply to the Court for a divorce on the ground that there has been a continuous and intentional separation for a period of three years, leaving the Court to make what arrangements it thinks fit in regard to such questions as maintenance or the custody of children, if any. This proposal of mine aroused very bitter controversy from the Church when it was first mooted ; but this was perhaps not surprising when it was represented by the Bishop of London and others to mean that any husband and wife who had been married without being separated for three years could demand a divorce *when the third year of the marriage expired*. Since then, however, the general principle has become more popular, and has

been reinforced by a demand on the part of Mrs Fawcett and others that the period of seven years' entire dissociation, which by the Offences Against the Person Act 1861 is a sufficient offence for prosecution for bigamy, should be reduced to four.

These proposals are not of course meant to be final ; but I submit that they do indicate a policy of enlarging and consolidating conjugal responsibility as well as matrimonial liberty, and there can be no doubt that absurd legislation does as much to destroy the feeling of public and private obligations as anything well can.

CHAPTER VI

PARENT AND CHILD

IN one of his best-known books¹ the late Mr Stephen Reynolds pointed out that the governing class do not take the trouble to reckon what the poor have to contend with; they prefer to fling laws and fines at their heads instead. On general principles one would imagine that the State would desire every parent to be free to educate and train children as they think fit, as indeed the well-to-do parent does. But this right is generally considered quite unnatural for the poor parent. Just because wealth is ill-distributed and because capitalists have always profited by employing child labour, the poor man is assumed to be the natural enemy of his child. That the child should derive any moral or intellectual benefit from assisting either parent at home or anywhere else seems incredible to the ordinary meddler whose business it is to interfere with the poor. The ordinary rich

¹ *Seems So!* p. 37, London, 1911.

parent sees nothing of his children except at short intervals during holidays and on Sundays. The child is divorced from home life by being either at a school and later on at a university for most of the year. Perhaps, therefore, the middle classes are not well adapted to appreciate the real force of family ties where the family is a co-operative unit.

There are, of course, exceptions. I am well acquainted, for instance, with a man who had a good enough education as a scholar of Eton and Balliol, but who has always remained of opinion that the ten years that he spent in association with his father in business were the best part of his education.

It is impossible to read without incessant and corrosive indignation the newspaper reports in which one sees the claims of the parent utterly scorned when it comes to a question of school attendance, and especially where small boys are sent off to industrial schools for five years because of some juvenile adventure which would never get any rich man's child into any worse scrape than corporal punishment. The parent has little or no choice of educational facilities except in regard to religion, and even in that respect the claims of the agnostic and free-thinker are

entirely ignored. The police magistrate seldom takes the trouble to understand the parent's point of view, for few magistrates possess as much human sympathy as Mr Clarke Hall, whose recent book, *The State and the Child*, should be studied by everyone who wishes to understand the rights and wrongs of the whole question.

The crying evil of our time is therefore the need for a change of heart among legislators, magistrates, bureaucrats, and inspectors. But if the ideal of parental responsibility is to be upheld, there are certain obvious legislative reforms which should be carried out as soon as possible. In the first place, the child should be as well protected as the wife in regard to maintenance, and the father should be compelled, as he is in Latin countries, to maintain and educate his children in proportion to his means, and not merely to keep them out of the workhouse. We ought also to follow the example of all European countries in restraining a parent from leaving more than a certain proportion of their property away from the children and thus creating what is called a *legitima portio* for each child, whether legitimate or legitimated by subsequent marriage. There should also be a proper law of adoption,

for in cases where a parent of his or her own free will hands over the child to some person who is anxious to bring it up, the parent should not be able to resume any rights of custody whatever. It is odd that the English law, while declining to recognise any law of adoption by a private person, should give extraordinary latitude to the State ; for the State not only separates the child from the parent quite happily for a term of years, but has also been known to conceal the whereabouts of a child from the parents.

I now come to the question of easier divorce as bearing on the welfare of the child. The existing practice and procedure in regard to the custody of children in the English High Court of Justice is on the whole sensible and reasonable, except on one point, which is the barbarous denial to a mother who has been guilty of adultery of any access to her child. But even in this respect the modern citizen tends to be more civilised than the law, and the practice of the Chancery Division is slightly more liberal in this respect than that of the Divorce Division. We are, however, always being told by opponents of divorce law reform, and especially the clergy, that children would be ruined and neglected by making divorce easier.

The first care of the Legislature should be to leave nothing undone that will ensure the child, wherever possible, obtaining the benefit of joint parental care, and therefore of fostering anything that encourages the feeling of joint responsibility on the part of the parents. In that connection it may be noted that too much fuss is made in Great Britain and English-speaking communities about adultery. Inhabitants of Latin countries regard the duty of keeping up a joint home for the children as paramount. Even if each parent is lax in respect of adultery but conscientious in performing parental duties, the child grows up in a much better atmosphere than where the parents are incessantly quarrelling. There is a type of interfering mischief-maker and moralist in English life who is far more dangerous to the best interests of the family as an institution than any divorce law reformer.

In the last chapter I advocated a statute by which either spouse should be allowed to apply to the Court for a divorce on the ground that there has been a continuous and intentional separation for a period of three years, leaving the Court to make what arrangements it thinks fit in regard to the maintenance or custody of children. I think that such a statute would

benefit the children of an unhappy marriage in many respects. It is generally admitted to-day that permanent separation is bad both from a public and private point of view, and in the case of young people it must nearly always lead to the formation of other ties, and consequently to an overpowering desire for divorce. This desire for divorce can only be fulfilled to-day by one of the parties committing adultery, and I submit that this compulsory adultery and the consequent scandal is injurious to the children of an unhappy marriage ; for it involves the family in scandal and thus injures the respect of the child for the parent, and also often damages the child's self-respect.

There can also be no question that it is to the benefit of any child to be removed from a home where incessant quarrels take place. The witnessing of such quarrels has a pernicious effect on the nervous system of any child, as can be seen by ordinary observation. Everyone knows that in a case where the parents are separated the child can see each parent separately without any atmosphere of secrecy or embarrassment. Why, it may be asked, should this not also be made possible where the parents are divorced ? The principal obstacle is the present

law of divorce in England and Wales, which in nine cases out of ten creates a real quarrel in public, like a sort of dog-fight for the amusement of depraved spectators or newspaper readers, and in every case a sham quarrel. A shrewd clergyman once observed to me that if divorce became common and much re-marriage took place the child in the home of the re-married parent would be at the same disadvantage as a step-child. But it is difficult to believe that any such child could be in a worse position than if it were brought up by two parents who disliked each other so much that they remained permanently separated for three years; and even if such a case arose, the Court would still be able to intervene if the trouble could not be privately adjusted.

It has also been objected that parents might avoid having children for fear of subsequent disputes. This motive, however, might apply to any marriage under the existing law, and there are far more discouraging social factors, such as unfair taxation, and the general persecution of parents by the owners of houses and flats and tenements.

All the arguments adduced in the last chapter in regard to the question of conjugal responsibility being bound up with reasonable liberty

apply with even more force to the fostering of a joint responsibility for children. Nothing destroys this sense of joint responsibility so much as incessant disputes between incompatible parents, and these disputes usually end in the disruption of the family in so far as the children are invited to take sides with the parents, and usually do so, with the result that they quarrel with each other. There is a growing conviction to-day that to promote the freedom and privacy of marriage is far more likely to promote a sense of parental responsibility than an atmosphere of odious legal compulsion combined with the knowledge that this compulsion can only be ended by odious legal means. Our legislators might also reflect that even if we leave the welfare of the family out of the question, it is not good for the law of the land to be held in contempt. This reflection, however, is not at all likely to occur to them if we can draw any conclusion from the contempt of public opinion which distinguishes most of their performances.

CHAPTER VII

ASSOCIATIONS

THE paradox of all liberty is the necessity for the State to control liberty of association or combination in order to safeguard the liberty of the individual. The necessity is plain enough in regard to secret societies, and it is for this reason that we see the persecution of the early Christians under the Roman Empire, of Freemasons at one stage of American history, and of religious associations by modern France. It is clear that individuals should be free to form combinations and associations ; but obviously the power of these bodies has to be controlled if it becomes too tyrannical. The same principle even applies to what we call the State, for the State at any given time is nothing more than a combination of individuals with executive and legislative powers, who must be controlled either by the limits of a written constitution or by some manifestation of public opinion if a nation is to be saved from tyranny.

It is commonly supposed that most strong associations, such as, for instance, a plutocratic Trust or Trade Union, are entirely careless of the public weal and simply pursue their own end without any civic conscience. This, however, is often not the case. A group of financial magnates who create a Trust in some necessary article are often foremost in building model dwellings, and consider themselves indispensable to the welfare of the proletariat. The Trade Unionist, whether he is following his official leader or a shop steward, genuinely imagines that the country would go to pieces if he did not enforce his demands. Every man as a rule feels himself indispensable, and takes a strictly professional view of ordinary matters. The doctor, for instance, is intent on saving life even if his patient has excellent reasons for preferring to die. The professional advocate is sometimes inclined to think too much of the merits of his case without reference to the expediency of fighting it in public. But, after all, nobody is compelled to go to any given lawyer or doctor, and the bureaucrat is infinitely more dangerous because nobody can escape him ; and this consideration applies even more to a body of men like the British Cabinet, who in these days have nothing to fear from a

hostile vote in the House of Commons. Perhaps the best and only recent instance of a cynical tyranny was that of the Prussian Junker, who undoubtedly cast his whole influence in the direction of war, because he feared that the Socialist party might tax his land. For many years before the war he was able to put up the price of meat to any figure he liked, because he not only had an agricultural monopoly, but was also able to restrain any importation of foreign meat. The married women of East Prussia then determined not to have children, with the result that the Junker class merely prolonged the time of conscription. Probably, however, the Junker justified what he did by invoking some divine sanction, even if he could not justify his actions on the ground of public policy.

In Great Britain there was probably more liberty of association in the nineteenth century than almost anywhere else. After the early decades of the century more and more liberty was given to Trade Unions till in 1906 they possessed enormous powers of intimidation without any legal responsibility; and this result will not be regretted if it leads to the formation of a Middle-class Union, which will fulfil the functions of a Consumers' League. There was next

to no interference with clubs, although the law has always carefully preserved a right of action for a man who argues that he has been unjustly expelled from a club. Before the war, when it became necessary to exercise some control over the employment of British capital, the Government did not interfere very much with joint-stock companies, though it did what it could to restrain the predatory instincts of the promoter. The joint-stock company illustrates in itself the converse of my contention that liberty generates responsibility, for it is the irresponsibility of limited liability shareholders which leads to the tyranny of directors, and more particularly of an astute secretary who understands how to divide and rule according to the Roman policy. While the company itself has no body to be kicked or soul to be damned, the directors usually find in practice that they can do what they like without any danger of the shareholders intervening, and this has also been noticed in companies where even a liability on partly paid shares has not prevented the shareholders from allowing the officers in the company to go their own way until the crash came. This danger exists on an even larger scale in the modern State, where the citizen becomes more and more like the share-

holder and the governing class more and more like the director. It is to be hoped that we shall not be too late in discovering that a man if deprived of his liberty ceases to be responsible, and if deprived of responsibility ceases to be free.

Professor Dicey¹ cannot suggest any better solution of the difficulty of reconciling the freedom of the association and the individual than "to effect a rough compromise between them." It is quite true that any solution must be in the nature of a compromise, and that there must be checks and balances of all kinds in holding an even hand between rival associations and individuals. I suggest that the State should act on much the same principles in regulating the liberty of corporations as in regulating the liberty of individuals. Just as the State is well advised not to pry into the secret thoughts and aims of an individual, so the State should, where possible, avoid prying into the secret thoughts and aims of a corporation, except where they come into too direct conflict with national welfare, as in the case of the Jesuits in sixteenth-century England and of one or two of the Women's Suffrage societies in our own time.

¹ In his book, *Law and Opinion in England*, p. 466, London, 1905.

It is, for instance, clearly much better not to take up the time of the police in tracking down places where opium-smoking is carried on or clubs where fermented liquors are drunk in forbidden hours, even if the authorship of serious crimes like murder and robbery were more often discovered than it is. The persistent interference with groups of individuals who wish to indulge in a habit which does not in the least concern the State is bound to promote irresponsibility and disorder. The rising tide of disorder in the United States on the Prohibition question should be a healthy warning to the faddists who control our legislation, if indeed such fanatics are capable of reason. Even the American motorist cannot enjoy being shot because a Prohibition agent thinks he may have some liquor in his car, and an American lady, though accustomed to considerable incivility from Custom House officials, can scarcely welcome a Prohibition agent who pushes her out of her bed in a sleeping-car to see if she has whisky under her pillow. All these observations apply with equal force to the suppression or persecution of religious associations and to any undue interference with finance.

A definitely anti-national association cannot

properly complain of interference with its liberty ; but the danger of our time may turn out to be an inclination to interfere with a society simply because it is international. Jews and Catholics have always been suspect for this reason during any time of international tension. Cobden thought that Europe would become international if there was free intercourse between different peoples and as little intercourse as possible between their respective governments. It is, however, now clear that the governments can no longer be excluded, for they must necessarily take an active part in the League of Nations which is to secure international peace. It is to be hoped that all civilised governments will in time understand that legislation which in any way countenances the persecution of naturalised British subjects is a gross violation of all the principles on which the League of Nations is supposed to be founded.

Mediæval Europe was not a paradise ; but it had a certain unity which was only destroyed by the decay of the Holy Roman Empire, the Reformation, and the growth of nationality. Mediæval Europe had an extraordinary community of thought and action. It had one empire, one Church, and one common language.

It thought alike on nearly all questions of religion and morality, and was capable at any moment up to 1500 of opposing a united front to the barbarian invader, whether he came from North, East, or South. Modern Europe may possibly recover through some loose federal scheme the community which she has lost; but without some sort of federation which combines autonomy with centralisation she will simply become more and more disintegrated by the poisonous gas which the German religion of the State has let loose on the world. She will for ever remain in financial servitude to the inhabitants of the other continents, and if liberty ceases to exist in Europe, it is difficult to conjecture in what other continent it will be found.

CHAPTER VIII

POLITICIANS

IN this chapter I shall deal with the problem of political responsibility ; but I shall restrict the term to the responsibility of the politician as opposed to that of the ordinary citizen. It is not disputed that in the earlier forms of government there was a direct responsibility of the governor, whether a despot, aristocrat, oligarch, or demagogue, to the community which he governed. In these circumstances to offend public opinion was dangerous, and expressions of dislike were apt to be vehement because long repressed. It is the fashion in these days to imagine that the constitution of modern democracy provides sufficient safety valves to moderate the wrath of the populace and to get rid of the offending politician before violence becomes inevitable. There are perhaps advantages in the more ancient principle that a politician should take the same risks as a soldier, and in fact the most energetic rulers as, for

instance, Julius Cæsar, have been soldiers at the most critical stage of their political careers. It is not, however, necessary for my purpose to travel much outside England, and it is interesting to see how, in the history of our own country, the doctrine of political responsibility has varied from time to time. In England it has always been more usual to kill or imprison the minister or favourite of a king than to kill the king himself, although ministers were directly responsible to the king until after the Stuart period. In the thirteenth century an accusation of treason against any minister would be brought before the House of Lords, which had jurisdiction over this proceeding. In 1376 the Commons of the Good Parliament impeached Richard Lyons and Lord Latimer for malversation before the House of Lords, and from this period the procedure of impeachment seems fairly settled. Later on the House of Lords were accustomed to declare and adjudge as traitors members of their own body or others who were threatening to disturb the public peace. This declaration, when sanctioned by the other estates of the realm, became an Act of Attainder, which was an Act of the Legislature pronouncing condemnation without any form of trial. This convenient

method was much used during the wars of the Roses, and subsequently by the Tudor monarchs. Impeachment was, however, renewed as the power of parliament revived under the Stuarts. King Charles I. invented the counter-moves of proroguing or dissolving any number of parliaments in succession; but this roused the Long Parliament to legislate against a dissolution without its own consent, and in the cases of Strafford and Laud they turned the preliminary impeachments into Bills of Attainder, to which the king had to assent. But finally, in the Act of Settlement, it was enacted that no pardon under the Great Seal of England could be pleaded to an impeachment by the Commons in Parliament.

A Bill of Attainder is still legally possible; but an Act was passed in 1870 which removes all disabilities from the heirs of an attainted person. Since the impeachment of the Tory leaders after the death of Queen Anne, Lord Macclesfield was impeached in 1725, Warren Hastings in 1791, and Lord Melville in 1804. The case of Warren Hastings is well known; the two peers were impeached for malversation of public money.

It is not perhaps irrelevant to mention here the Statute of 1782, by which government

contractors were excluded from sitting and voting in the House of Commons under severe penalties. A share of these penalties could be claimed by a common informer. Much astonishment was expressed when this procedure was revived against Sir Stuart Samuel in recent years, and the politicians loudly complained that the corruption of the eighteenth century was unknown in the twentieth. Comparisons are always odious; but the revival of this ancient procedure in the twentieth century certainly provoked much useful reflection on the subject of corruption, past and present, and on the whole had a healthy effect on public opinion.

Broadly speaking, we may say that after Melville's case in 1804 the politician enjoyed quite a limited liability in respect of his actions by reason of what Mr Medley, the constitutional historian,¹ calls "the substitution of moral for legal sanctions such as is implied in the appointment of a Committee of Inquiry." After this date no politician has been punished in Great Britain, except possibly in cases of enforced resignation. There has been a system

¹ *English Constitutional History*, p. 166, by D. J. Medley, Oxford, 1898.

of comfortably limited liability in politics for everyone except kings and presidents, who sometimes still get shot.

The corruption of the eighteenth century was based on various forms of conspiracy to get what was in the good old phrase called "a snip out of the taxes," and of course there has never been a period of complete freedom from the power of vested interests. For example, the House of Commons was in the middle of the nineteenth century singularly free from the grosser forms of corruption; but the railway companies and landowners and industrial magnates could yet extort very unfair monopolies from the State without protest. Political corruption, however, towards the end of the nineteenth century took quite a different form, and, as might be expected, is not admitted in these days to be corruption at all. It arose out of the social disharmony which resulted from the decay of aristocratic government in England. Clearly, a talented member of the middle class, as for instance Disraeli, could not give up the necessary amount of time to political activity or associate with political colleagues much richer than himself without having money. Disraeli solved the problem by marrying a rich woman, although fortunately

his affections coincided with his interest. But this solution is obviously rare, and it became more and more necessary for a political party to be subsidised by its wealthy supporters, who very naturally wished to get something in return for it. The desire of such a man for political honours is perhaps harmless enough, for all honours tend to be badly distributed; but to obtain the legislative power involved by a peerage was perhaps a more serious claim to meet. On the other hand, a rich man who remained in the background could perhaps exercise even more legislative power by financing particular measures.

The advent of a number of poor men to the House of Commons in the Liberal and Labour triumph of 1906 made the scandal of secret party funds even more acute, and the secrecy was perhaps the worst evil of all. The persistent refusal to disclose any balance sheet and the almost accidental discovery that Lord Murray of Elibank entirely controlled the purse naturally gave rise to what the upholders of the existing system considered an uncharitable supposition, namely, that a considerable amount of money might have been contributed from hostile sources. But the atmosphere of dark suspicion was converted into an atmosphere of comedy when it

became known that the party funds of the Asquith administration had been carefully removed beyond the control of Mr Lloyd George and his supporters when he became Prime Minister at the end of 1916, and that the old system was displaced by a new system under which ministries as well as honours came into the market.

This historical digression is not irrelevant to the main purpose of this chapter, which is to show the demoralising result both on the politician and the public of eliminating the liberty and responsibility of the politician. For the politician has ceased to be responsible in any real sense except to those who can or will finance him by pouring out enough money for propaganda and for the bribery not of individuals but of particular classes and organisations. The politician and his masters must of course not offend public opinion too brutally; but this consideration need not severely restrain them, inasmuch as they create public opinion to so large an extent by their own journals and newspapers.

I do not mean to suggest that the politician must necessarily sell his soul to those who support him. Recent history has shown considerable adroitness on the part of Mr Lloyd George in

playing off one supporter against another, and particularly in defying the thunder of the Harmsworth Press. Nevertheless the politician must obviously consider the claims and desires of his supporters before the public interest, and under present conditions he can be guilty of any negligence and his blunders may result in the devastation and depopulation of whole continents without his ever encountering a fraction of the unpleasantness that he would encounter if a verdict had been published against him as co-respondent in a divorce case. Lord Tennyson, who might be supposed to reflect the deepest and most sacred feelings of the British public or even the House of Commons, wrote :

“So fret not, like an idle girl,
That life is dashed with flecks of sin.”

But the sexual purity of the politician has become such a fetish of the twentieth century that even the great poet's lines must sound a little cynical to the modern reader when he is thinking of politicians.

The politician, however, is a necessary evil. Most men are far too thin-skinned and indolent to stand the strain of modern administration, with its perpetual accompaniment of rhodomontade. They are consequently prepared to allow the

politician considerable latitude in practice and to keep up the astonishing supposition that the politician is an ardent patriot bearing the colossal responsibilities of a modern Atlas with the world on his shoulders. After all, patriotism is as much the stock-in-trade of a politician as an apron is of a bishop or a butcher, and even if he incurs but a remote risk of assassination or hanging, it is nevertheless most unpleasant to have your windows broken when you are sitting at breakfast, and even more harrowing to be frequently blackmailed. I venture to suggest, however, that if the politician were made to pay for his mistakes like the humble professional man the country would be governed at least as well as a public company is administered. Probably a politician would be as rarely found guilty of negligence as a doctor or surgeon, for politics, like medicine and surgery, is a dangerous profession the members of which must stick together. On the other hand, there can be no question that the doctor and surgeon have got a feeling of professional responsibility which is conspicuously absent in the modern politician.

For these reasons it is difficult to accept the Committee of Inquiry as a satisfactory substitute for the old-fashioned device of impeachment.

These committees are always suspected of white-washing everyone concerned, and it is extremely easy for them to evade the crucial points which they are appointed to investigate. On the other hand, if a particular politician is put on his trial the issue is sharply defined, and this definition of the issue tends to disclose the essential facts. If, for instance, the politicians who were discontented with Mr Asquith's administration in December 1916 had been forced to impeach him, Mr Asquith could have cleared himself at once of some disgraceful insinuations that were made against him. At the bar of history he will, no doubt, appear as a great statesman whose principal offence was his effort to disturb the ordinary routine of the national life as little as possible and to abstain from the reckless multiplication of bureaucrats. The historian may credit Mr Lloyd George with keener foresight into the military situation at that time, and he may or may not decide that Mr Lloyd George's methods, whether essential to victory or not, at least stimulated the national *moral* by suggesting the operations of a new broom. But an impeachment would at least have cleared Mr Asquith's character as an honest and courageous patriot.

The time has assuredly come to give the politician a free hand so that he may sink or swim. It is obviously mischievous that his discretion should be fettered by financial necessities, and still more mischievous that for this very reason he should escape responsibility as completely as his paymasters. Ten years ago it might have been objected that the doctrine of collective responsibility in an administration was sufficient to guarantee the integrity of the politician, on the ground that the politician's one nightmare was the loss of power and emoluments. Even, however, if this were true it can safely be said that the doctrine of collective responsibility is to-day as dead as a door-nail.

CHAPTER IX

THE CASE FOR LIBERTY

IN the foregoing chapters I have attempted to show in as simple language as possible that in all departments of human life there must be some kind of individual responsibility, for even a slave cannot work well without a sense of it. Individual responsibility, however, cannot properly exist unless the individual citizen has some property, however small, or the means of acquiring it, a vote or some such means of exercising political power if the Government is not carrying out its duties, a certain freedom of discussion within the bounds of social order, and whether married, unmarried, or a parent, a general freedom in regard to the intimate side of his own life. We must remember that property is in itself a form of freedom, and that a man cannot be responsible in any real sense if in the most trivial actions of his life he perpetually feels his neck in a sort of dog-collar. Conversely, I pointed out that in the case of associations and politicians there

could be no freedom for them to exert their best functions without a more severe sense of responsibility. I also argued that if modern democracy cannot achieve this combination of freedom and responsibility the political condition of the citizen will be worse than in any other forms of government, because other forms of government are more directly amenable to public opinion, owing to what may be called the invisibility of a democratic caucus as compared with the visibility of a despot or any aristocratic or oligarchic ruling body.

The difficulty of establishing liberty in the past is the same as that of securing it in the present, namely, the congealing of all societies from time to time by the necessities of war. We are accustomed to regard patriarchal society as a society frozen by custom ; yet within the limits of custom there must have been considerable scope for liberty in time of peace and a certain choice of vocation, and it must also be remembered that what appears servitude to one man is really perfect freedom to another. The routine of self-imposed duties does not gall those who perform them. Real servitude involves such compulsion as that of a man who is by vocation a priest to be a soldier or of a woman who is

by temperament a mother to be a vestal virgin. Such compulsion is apt to occur only when society is, as I have said, congealed by a fear of destruction.

Patriarchal society in the case of Babylon, Assyria, Egypt, and Rome gradually developed into what Mr Belfort Bax calls "more or less loose confederacies of cities under an overlordship, whose powers were mainly exercised in the direction of military service and of fiscal subsidies usually for war purposes." The coercive machinery of these empires was therefore quiescent except in time of war, and the local centres and cities enjoyed considerable autonomy. The same conditions are true of mediæval Europe, with its free cities, its territorial jurisdictions, and cosmopolitan church and clergy. But in Western Europe, India, and Japan there occurred what is called the Feudal System, which, as Mr Jenks has suggested, represents a compromise between purely patriarchal and purely political society.¹ The feudal tie of allegiance bound the vassal to render military service to the lord as a condition of land tenure, and logically involved the toleration of private war. Private war, however, was not tolerated by the Norman

¹ *The State and the Nation*, by Edward Jenks, 1919.

kings of England, who made all landowning men take direct oaths of fealty to the sovereign himself. This centralisation of government made private war always difficult, and after the wars of the Roses almost impossible, and this immunity from private war, combined with insular security, has done much to preserve all the elements of the British character which make for the liberty of voluntary co-operation as opposed to the servitude of compulsory coercion.

This policy of the Norman kings was widely imitated on the continent of Europe at a much later stage, and in the fifteenth and sixteenth centuries we see the European nation-state becoming the unit of power. The increasing complexity of any community in time of war involves a process of centralisation which necessarily destroys or transforms the existing liberty of many individuals and groups ; but this centralising process derives its energy from an instinct of self-preservation and can never permanently prevail in time of peace unless the changes which it has brought about ultimately express the general will of the community. For in time of peace the centralisation thus achieved thaws back into the natural flow of free human intercourse and intercommunication, as we see in the

disintegration of Europe just as the Roman Empire was declining and before it had been seriously broken up by barbarian invasions. Such a period may be, and often is, one of great happiness for individuals and family groups, and the centralising process only revives because men seem unable to live in peace with each other for any long period of time, if only because every population has a tendency to expand beyond means of subsistence and then to attack the territory and wealth of its more peaceable and less prolific neighbours.

For the reasons above stated, however, the growth of liberty in Great Britain has been much less precarious owing to the establishment of a central authority under the Norman kings and to a sense of insular security. As an island Great Britain attracted adventurers of all kinds, but more particularly adventurers who were not afraid of the sea and had all that individuality of character which we associate with those who go down to the sea in ships, whether for war or for commerce. Therefore, in "this happy breed of men, this little world, this precious stone set in the silver sea," there grew up a tradition of personal freedom which gradually expanded from the baron to the burgess, and in the early decades

of the nineteenth century even to the humblest citizen. This tradition was not only the impulse of the great volunteer Army and Navy which sprang up to defend the shores of these islands in 1914, but also of the host of men who came to help them from all ends of the earth.

The spectacle was surprising to some who had anxiously watched the growth of Collectivist theories as from 1880; but this was perhaps because the observer tended to forget the toleration of Church and Chapel tyranny throughout English history. It was, after all, not until 1640 that the Church ceased to exercise the functions of the police magistrate, and till 1857 that the institution of marriage ceased to be under ecclesiastical control. It may be instructive to remember that nine years afterwards, in 1866, a man was prosecuted for not going to church. As the influence of Church and Chapel almost invisibly decayed, Collectivism began to step into their shoes. Though derived from the military philosophy of the German Religion of the State, English Collectivism was not consciously military, nor had it the justification of real war, and in its love of petty interference it was temperamentally clerical. Like Church and Chapel it was not indifferent to Mammon. Though the Collectivist

aimed at organising society in quasi-military *cadres*, he was not as a rule logical enough to attack the plutocrat except when he was a land-owner, and a certain type of industrial plutocrat fitted quite naturally and easily into the Collectivist scheme so long as he took a huge salary from the State and did not call it profit.

The industrial plutocrat was quite as pleased as the Collectivist by the vision of all citizens reduced to the level of the slothful and servile citizen in order that they should all undergo a common compulsion to work for the State in whatever grooves the State might appoint. The governing impulse would come from the bureaucrats of Whitehall, who were to administer all means of production ; but when once the State had acquired this economic power it could then step into the shoes of Church and Chapel and interfere with the private morals and lives of the ordinary citizen and his family, just as Church and Chapel had done in the past. Such a scheme of society appealed with great force to pretentious philanthropists and various busybodies who wished to emulate the tyranny of the squire and the parson, whom they had so often denounced, and all these folk were naturally delighted when the exigencies of war seemed to lend a certain seriousness to the

caricature of a military society which they had originally set up without the sanction of military necessity. These ladies and gentlemen often point triumphantly to the tyranny which exists in English-speaking communities in regard to the consumption of fermented liquors and other questions of the same kind, and inform us that democracy does not want liberty, and that liberty is no more than the tradition of tyrannical noblemen and insanitary gipsies.

Probably the late Charles Eliot Norton had some such idea in his mind when he observed to me twenty years ago that democracy would be a very pleasant society to live in a thousand years hence. It is often supposed that the poor care as little for personal liberty as they care for good scenery or beautiful surroundings. I do not myself believe anything of the kind. I do not think that it is in the English, Scottish, or Irish character to love the secret politics and diplomacy of what passes for modern democracy, or the incessant interference of Collectivist bureaucrats with the citizen's most intimate concerns. The poor man may perhaps sometimes regard personal liberty and beautiful surroundings as luxuries which of necessity he cannot enjoy, and he may become as much

resigned to this as the ordinary citizen became resigned to the loss of liberty and the mutilation of our woods and forests so long as the necessity of war clearly caused these evils. But this feeling by no means involves any state of permanent subjection.

I need not appeal to the history of a people who have always been "turbulent islanders with a genius for co-operation." The proof of the pudding is in the eating. The war brought Collectivist theories like those of Mr Webb and his friends (and also the Collectivist practice of the modern Cabinet) to a sharp test. The Englishman was ready to fight for what he regarded as liberty even under the irksome fetters of military discipline, although he infinitely preferred the greater initiative which he could exercise in an aeroplane, a trawler, or a U-boat. But these stern realities have undoubtedly strengthened his determination to destroy any so-called democracy which is going to interfere with him as Church or Chapel did in the old days. He is beginning to perceive that the real menace to his freedom is the power of the industrial plutocrat who wishes to organise a nerveless and teetotal proletariat for his own purposes. The Englishman will certainly refuse

to be deprived of his beer because his employer has been informed by some medical authority that teetotallers work more rapidly and are more subordinate. He will also refuse to renounce the right of owning land and small savings in order to obtain coupons and doles from a bureaucracy which will never restrain the plutocrat from holding the community to ransom and is often the first to consult the plutocrat on the best government measures that can be taken to inspire industrial docility by discouraging industrial "unrest."

The Englishman is intelligent enough, if properly informed, to make proper allowance for the throes of Europe in creating bigger international units of government in order to regulate international disputes and to control the international distribution of raw material and food-stuffs. In existing circumstances he is not likely to be given much information, and he will find it necessary to be very patient. There is at present every danger that the new process of centralisation which the international situation makes necessary may break down without some sound substructure, with the result that our civilisation will be in the melting-pot, and our age will be darker than the Dark Ages.

It is therefore vitally important not to interfere with present liberty an inch beyond what is imperatively required by the necessities of the situation. The solution of the international problem will probably be found in some form of gradual federation ; but pending this process the individual Englishman will to-day resent the jack-boot of Whitehall almost as keenly as a Belgian would resent being restored to the control of Berlin. A wise Government can only retain authority at present by fostering liberty and civic responsibility by every means in its power, and the first step towards that end is to give as much political education as possible, so that all citizens, male and female, may grow to understand more about the difficulties of government and of governmental machinery. The electorate must become in politics what a Consumers' League would be in economics. It must know when to make allowances for the executive and when to demand instant explanations. Under some such system there might be full scope for individual responsibility, for all kinds of political experiment, and for all kinds of local autonomy. During the last two years there has been a profusion of grandiose flatulence about the glories of bureaucracy,

which is perhaps even more conspicuous in the columns of *The Observer* than in the speeches of the supermen who are thus glorified. The writers of this stuff do not seem to understand how little it impresses the mob as compared with the irritation of those who are determined not to see this country Prussianised. Russia and Germany have both been ruined by the type of self-sufficient dynast or bureaucrat who imagined that his country existed for little except his own glory and aggrandisement. British Collectivists are probably more disinterested if no less vain and arrogant than the men who have made a havoc of Europe. But if they do not moderate their pretensions they will find themselves permanently stultified if they fail, while if they succeed they will very likely be sweeping crossings, as men of that type have been forced to do in Petrograd, even if they escape a worse fate.

When John Stuart Mill wrote his essay on Liberty he did not feel obliged to concern himself so much with political as with social liberty. He lived in what was then a free country, and in an atmosphere secure from the incessant hurricanes and earthquakes of the last few years. He pleaded for the dignity of personal

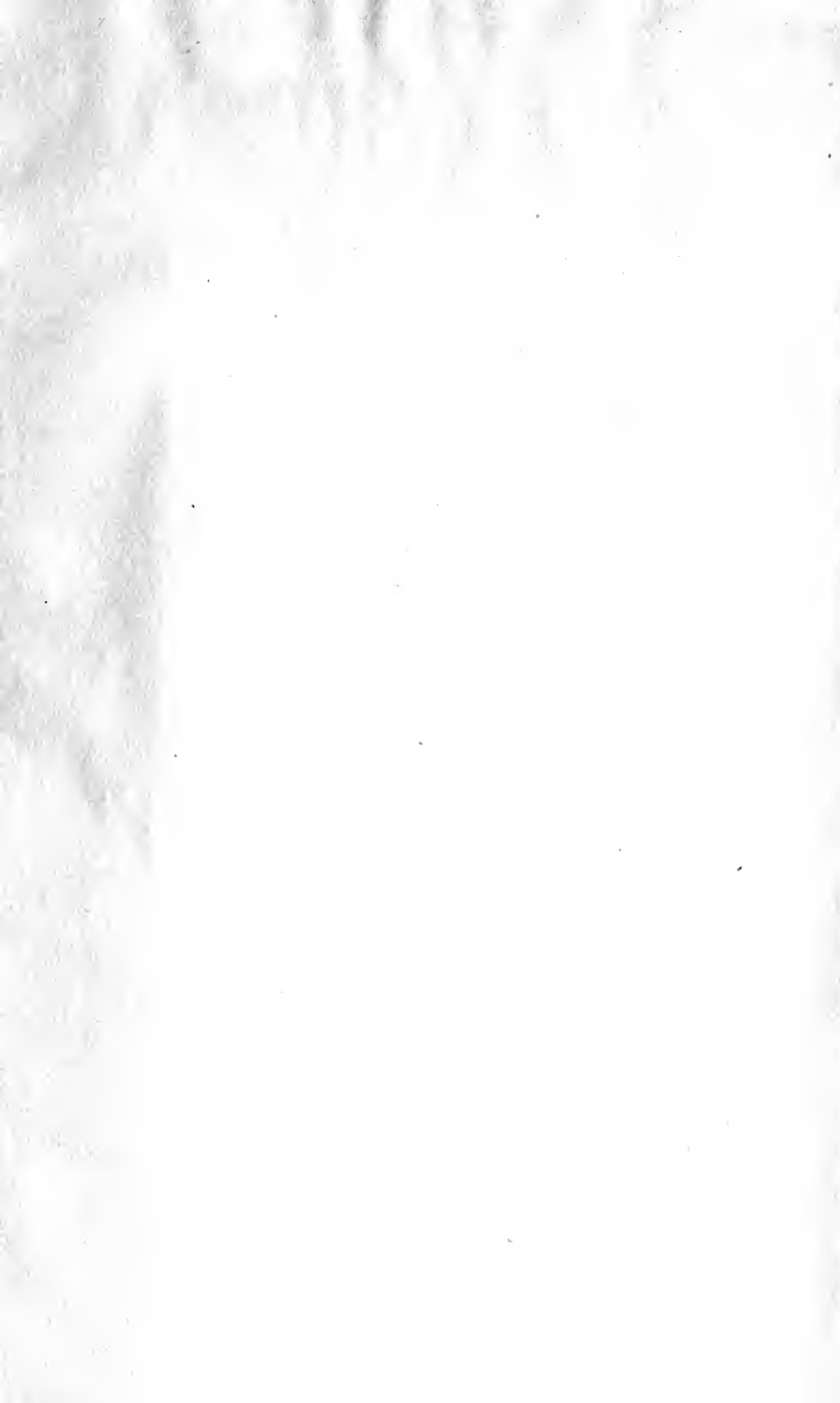
freedom and for the principle of "live and let live" as a governing rule of society. His essay had in it more passion than reason, for he was not a lawyer or a politician, and perhaps did not fully realise all the difficulties of social and political adjustment in a society which was less complicated than ours. Yet no one can deny that his eloquent words found a sure response in his own generation and that our own generation is not wholly deaf to his ideals. Even if our own generation does remain impervious to all the emotions that have inspired English history, there are still scattered among us some few men and women who will then feel that John o' Gaunt's dying speech has at last come true for them :

"This land of such dear souls, this dear, dear land,
Dear for her reputation through the world,
Is now leas'd out—I die pronouncing it—
Like to a tenement, or pelting farm :
England, bound in with the triumphant sea,
Whose rocky shore beats back the envious siege
Of watery Neptune, is now bound in with shame,
With inky blots, and rotten parchment bonds :
That England, that was wont to conquer others,
Hath made a shameful conquest of itself.
Ah ! would the scandal vanish with my life,
How happy then were my ensuing death !"

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